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SIXTH

ANNUAL REPORT

OF THE

STATE COMMISSIONER IN LUNACY

TRANSMITTED TO THE LEGISLATURE JANUARY 22, 1879.

ALBANY:
CHARLES VAN BENTHUYSEN & SONS.
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STATE OF NEW YORK.

No. 17.

IN SENATE,

JANUARY 22, 1879.

SIXTH ANNUAL REPORT

OF THE

STATE COMMISSIONER IN LUNACY.

STATE OF NEW YORK:

EXECUTIVE CHAMBER, }
ALBANY, *January 22, 1879.* }

To the Senate:

I have the honor to transmit herewith the Annual Report of the State Commissioner in Lunacy.

L. ROBINSON.

OFFICE OF THE STATE COMMISSIONER IN LUNACY, }
ROSLYN, QUEENS CO., N. Y., *January 7, 1879.* }

Hon. WILLIAM DORSHEIMER,

President of the Senate:

SIR—I have the honor to transmit herewith my Sixth Annual Report to the Legislature.

I am, very respectfully yours,

JOHN ORDRONAU,

State Commissioner in Lunacy.

REPORT.

In compliance with the requirements of the statute, the Commissioner presents the following, as his sixth annual report :

The increased interest exhibited in the subject of insanity by all classes of the community, is a significant illustration of the important part which it occupies in the administration of government. Whether studied simply as a bodily disease, or as a question of political economy belonging to the department of public charities ; or again, as a chapter in both civil and criminal jurisprudence exceptionally interpolated into the sphere of legal responsibility as a concession to the weakness of human nature, under whatever phase of inquiry it may be studied, it will be found to present problems touching the individual, the family, the social and the political relations of the citizen to the State. However much, therefore, it may be subdivided in its various phases ; and however entertaining it may be for purposes of scientific instruction to explore these myriad channels of causation through all the consequences which flow from them, yet, for purposes of legislative information, it is sufficient to group all these data into the three categories of *medicine*, *political economy* and *jurisprudence*.

MEDICAL ASPECTS OF INSANITY.

Nonage, dotage and disease, being qualifying agencies in the sphere of human duty and conduct, it is manifest that the State, as the author of positive law, must take cognizance of these conditions in apportioning the rights, duties, and responsibilities of its citizens. It is also manifest that no other forms of disease are cognizable at law, save those which are physically demonstrable—those therefore which fall within the territory of legal evidence.

It is the character of the jurisdiction which determines the quality of the evidence, and not that of the evidence which determines the quality of the jurisdiction. The State can only deal with human bodies wherever it applies physical restrictions upon liberty, or afflictive personal penalties. It cannot punish or restrain the mind, except in connection with the body ; hence, if it must take legal cognizance of insanity, it can only do so by considering it as a bodily disease, wherever originating and however displayed.

Physicians, deeply versed in the phenomena of insanity, may differentiate as much as they please between the probabilities of a moral as against a physical basis for the underlying foundation of mental disorder ; but, whether correct or incorrect in these conclusions, the law cannot follow them, and in consequence cannot recognize the existence of facts based alone upon conjecture.

Therefore, looking upon insanity as an essentially bodily disease, the State builds hospitals and not mere reformatories for its victims.

It supplies them with physicians accustomed to the treatment of bodily diseases rather than with clergymen accustomed to the treatment of spiritual disorders, and it also authorizes all needed restraints upon personal liberty. In other words, it treats insanity as a demonstrable physical disease, and, until so demonstrable, refuses its protection to those claiming to be thus afflicted. Nor can it act otherwise without involving itself in contradictions of authority and jurisdiction, tending ultimately to encroachments upon the moral as well as the personal liberty of the citizen.

And no better commentary upon the efficiency of our State provision for the care of the insane can be pointed to than the fact, that, while last year, as the statistics annexed to this report show, the increase in the number of the insane rose to the alarming figure of over *nineteen* per cent, the mortality during the same period fell to less than *eight* per cent. Under the favorable conditions afforded by treatment in our asylums, it is manifest that insanity does not always tend to the abridgement of life, but that, on the contrary, when occurring in the middle-aged, their withdrawal from busy scenes and incitements to feverish activity secures them against those sudden overthrows from which they have no longer any power to rally. The asylum thus becomes a quiet haven, within which these storm-tossed and battered hulks of humanity may ride safely at anchor, without effort or concern to the mental captain who now doses upon the quarter-deck of his former activity. Should the present ratios of increase to mortality in the insane continue for the next five years, all our completed asylums and those building will be filled to overflowing, and the State will again be called upon to resume building a new series of asylums, or to enlarge indefinitely those already in operation.

In view of the fact, however, that the mission of all science is to be progressive—to anticipate with accuracy and to prepare for the wants and the ills of human existence; and the progress of modern medicine tending to show the increasing power of preventive, over curative measures, it would seem but reasonable to conclude that something might be done—can be done, in truth, towards stemming this tide of mental degeneration. Physicians can do much, but they cannot do all that is necessary to carry with it influence in the community. The State must co-operate in furnishing the means for disseminating information upon this subject, as among the most valuable of studies both to teachers as well as to scholars.

POLITICAL ECONOMY OF INSANITY.

As the majority of the insane are everywhere found to be paupers, and the duty of maintaining them falls upon the several towns or counties, the question of their maintenance becomes a most important one to the tax-payer. While humanity demands that kind treatment, proper food, clothing and shelter be provided for all the insane, justice to the community also requires that in dispensing these bounties, care be taken to discriminate between the mere ideal and the practically useful. The standard by which to judge of the necessities of the individual cannot be fixed arbitrarily. Paupers are not justly treated, even if insane, by being given the same surroundings as those belonging to a more refined class of self-supporting lunatics. Everything in life being relative, the accident of disease imparts to the insane no claim to superior accommodations not founded upon strict medical necessity. Of this necessity and

of its forms, the medical custodians of the insane are the only proper judges. The law has placed them in the best position to ascertain this necessity, because it has made them responsible for the manner in which its insane wards are treated, and thus required of them vigilance in the discharge of their trust. Not to know what an insane patient needs, and not to request it from the proper purveyor, is evidence of negligence on the part of his medical supervisor.

The cost of the weekly support of lunatics in the various asylums will consequently vary according to circumstances, which are not always controllable. No uniform standard can be applied throughout the State, and the fact that the cost may be higher in one institution, no more proves extravagance in itself, than the greater cheapness in all other places proves economy or parsimony there. It is equally unjust, also, to compare the cost of maintenance in other States or countries with that in New York. Domestic life, whether in large or small households, is everywhere subject to local variations which are peculiar to the place. In Chautauqua county, the chronic insane are maintained for one dollar a week; at the Willard Asylum they cost \$2.88, and at either place these figures represent the actual expenditure incurred. Nor can these figures be lowered without injustice to the insane, for they are the minimum necessary to the object required. Small though it be, this cost can be justified by those who have experience in the treatment of that class of patients, for they are the result of honest endeavor to deal justly, as well as humanely with them.

But in those asylums where only acute cases of insanity are received, and the most ample provisions made for their curative treatment, it is less easy to fix any absolute scale of cost of maintenance. Hence the difficulty of instituting any just comparison between different institutions. This is particularly so in the case of unfinished buildings, containing a small number of patients of the acute class, and whose noise or violence require seclusion, together with separate rooms and more personal attendance, all which facts form a chain of circumstances varying each year, and bringing with it variation in the tariff of expenditure. This is a matter which can never be accurately determined in advance, nor algebraically forecast in any estimate officially furnished, as the basis of future appropriations. With every effort to retrench expenditures which may be made in housing, feeding, clothing, and nursing the pauper insane, there will always be failures arising from the fact that, at the outset, the prime factor in the problem, which consists of the number of the insane and the character of their wants, can never be ascertained in advance. All ratios, even in this respect, must ever remain approximate only. Every one knows that articles of prime necessity like drugs, building materials, and the wages of labor all rise and fall with the fluctuations of the market. It is impossible, therefore, to anticipate all possible contingencies, and to provide adequately against their effects. There are no means by which uniformity in expenditure can be absolutely maintained. No argument is necessary to prove this. It must always follow then, that with the best efforts at economy, occasions will arise when exceptional expenditures must occur. If they have been authorized by competent authority, that should be an answer to any doubt as to their propriety. The State must and does give large discretionary powers to the managers of our asylums, and in the absence of all evidence of wrong-doing, these persons are entitled to the confidence of the community. Being always liable to account for their acts

to the proper legal authority, they are not without supervision, and their conduct can at all times be officially inquired into by the Governor, the Comptroller, and the State Board of Charities. Under such manifold phases of accountability, it does not seem possible for malfeasance to go long undetected.

LEGAL PROTECTION OF LUNATICS IN NEW YORK.

In 1874, the whole body of our lunacy statutes, then numbering seventy-three distinct acts, underwent, under resolution of the State Senate, a thorough revision at the hands of the Attorney-General and State Commissioner in Lunacy. The result of this labor was embodied in chap. 446 of the Laws of that year, entitled "An act to revise and consolidate the statutes of the State relating to the care and custody of the insane, the management of asylums for their treatment and safe-keeping, and the duties of the State Commissioner in Lunacy." In this revision, which was made after frequent and extended consultations with judicial officers as well as with the most competent lawyers and physicians, every effort was made to combine an economic system of lunacy administration, so far as it relates to the pauper class, with entire protection to the personal liberty of all citizens alike, as well as to their estates. The law has now been in operation over four years; at least 2,000 lunatics have been committed under its provisions to our various asylums, and no official complaint of their insufficiency in any respect has yet been made. If ministerial officers have at times been delinquent in a faithful discharge of their duties, or if errors are occasionally committed even by judicial officers, this should not be allowed to impugn the sufficiency of the present laws, since error or personal negligence in public officers may occur in any department of justice. It is safe to aver, however, that as few have occurred in the administration of our lunacy statutes as anywhere, and their occurrence at most is exceptional.

Nevertheless, it annually happens that persons unfamiliar with our lunacy laws, bring bills to the Legislature asking for amendments without knowing that the questions involved are not simply legal ones, but questions in political economy as well. And that in applying such amendments to the fifty-nine counties of a State as large and as variously peopled as ours, immediate incongruities often arise to baffle and destroy the uniformity of such laws when attempted to be put into practical operation. It is to the ignorance of this larger operation of our lunacy laws that is to be ascribed these appeals for amendments by well-meaning but inexperienced persons.

The only cases presenting difficulties, which no legislation can provide for in detail, are those, possibly, relating to the disposition of criminal lunatics after indictment, and before trial and acquittal, who, meanwhile, may have recovered their reason. For the safety of the public, prolonged detention of such persons in asylums is unquestionably justifiable, as a general principle. But, on the other hand, we can not indefinitely confine a person cured of his or her lunacy, merely because they have been accused of a crime which in law we admit they were without competency to commit. This would be a paradox in the philosophy of justice, and akin to punishing a person for an act committed in a dream. But inasmuch as some of these patients recover their reason in one or two years, and even less, and efforts are immediately made to secure their release, it might be desirable to amend the statute so as to somewhat prolong the period of keeping them under observation by reciting that no appli-

cation for the discharge of a lunatic from any asylum, on the ground of his or her alleged restoration to sanity, whenever such lunatic shall have been sent there under indictment for any felony, shall be entertained either by the State Commissioner in Lunacy, or any justice of the Supreme Court, until one year shall have elapsed from the date of the filing of such application in the office of the said Commissioner in Lunacy.

Experience also demonstrates, at the State Criminal Asylum, that, when convicts remain insane after the expiration of their sentences, it would be better to retain them permanently, than to return them to the poor-houses of the several counties where they belong. The institution in time would need to be enlarged in order to meet this accumulation of chronic cases, but it would also help to relieve the poor-houses of a class of patients whose character and antecedents unfit them to consort with the ordinary insane. The counties should be made liable for the support of such chronic patients at the State Criminal Asylum, and the law should be made to apply to cases of *felony* as well as misdemeanor. The present statute covers only cases of this latter kind, and thus, in the majority of instances occurring at this asylum, the burthen of support falls upon the State.

Outside of this field of insane criminals, the following synopsis exhibits the fullness with which our laws provide for the protection of lunatics:

OUR PRESENT LUNACY LAWS REQUIRE

First.—Special qualifications in physicians to be certified by courts of record, before such physicians can act as examiners in lunacy, and all certificates of lunacy given by them must be made under oath. (Chap. 446 of 1874, tit. i, § 2.)

Second.—There must be an approval of such certificates of lunacy by a court of record, before any party can be retained beyond five days in any asylum. (Ibid, § 1.)

Third.—Trial by jury is secured, whenever desired by a court, or demanded by a lunatic. (Ibid, §§ 1 and 11.)

Fourth.—Protection to the estates of lunatics, without unnecessary restrictions upon their sale, leasing or mortgaging. Also, protection to their interests whenever in litigation, and either before or after office found. (Ibid, tit. ii, Code C. P., §§ 426, 427.)

Fifth.—Supervision of all asylums, private as well as public, by the Supreme Court, the State Commissioner in Lunacy, the State Board of Charities, its county visiting committees, and all county officers. (Ibid, tit. ii, § 1; tit. x, § 2, chap. 571 of 1873, §§ 4, 8.)

POWERS OF THE COMMISSIONER STILL INSUFFICIENT.

The wrongs which the statute contemplates may be committed upon lunatics, and for whose redress it has conferred certain powers upon the Commissioner, being in the nature of wrongs to the health, comfort or cure of the insane, no argument is needed to show that the essence of the remedy is the rapidity and directness with which it can be applied. In order to be effective it must necessarily be summary, otherwise it may arrive too late. Hence, any compulsory resort to technical procedure as a condition precedent to applying such remedy, and which might be justifiable in an ordinary issue of fact in a civil action, becomes, in the case of wrongs to the insane, a practical nullification of such remedy.

At present the statute constitutes the Commissioner in Lunacy the sole

and exclusive judge of the existence of a state of facts upon which he may issue an order to redress the wrongs particularly mentioned therein. (Chap. 446 of 1874, tit. x, § 4, as amended by chap. 267 of 1876.) But at the same time it neutralizes the effect of such order by permitting it at the outset, and before obedience rendered, to be made an issue of fact or the subject of a demurrer between the Commissioner and the party to whom it is addressed. It cannot therefore be enforced until after an order to show cause has been obtained, and an answer and final argument therein been heard before a justice of the Supreme Court, and these proceedings, with the delays incidental to them, serve to prolong the wrong and defer the redress which the Commissioner's order seeks to apply. In this way the remedial purpose of the statute is frustrated.

In order to obviate this, the Commissioner should be empowered, within the jurisdiction appertaining to his office, to exercise the functions of a Supreme Court Commissioner or Justice sitting at chambers. Acting under such powers, an order from him, whether in the nature of an interlocutory injunction to prevent an impending wrong, or a peremptory mandamus to redress an existing wrong, would carry with it an obligation of obedience which his present order does not impose. Then parties disobeying it would be placed at once in contempt, whereas now they are permitted to raise an issue upon it on any basis, and to compel the Commissioner to resort to special proceedings before his order can be enforced, after having first been reviewed by a justice of the Supreme Court. As before said, this delay in redressing wrongs to the health, comfort or cure of lunatics, too often renders the remedy valueless when it reaches them.

The Commissioner accordingly asks that such amendments may be made to the statute prescribing his official powers, as will enable him to exercise them without unnecessary delay, and according to the particular urgency which may arise.

MASTERS IN LUNACY.

The peculiar nature of the evidence adduced in issues of insanity, tried by commissioners *de lunatico*, and the embarrassments to both commissioners and jury, arising from conflicts of opinion between medical experts, point to the necessity of securing persons as commissioners, who have some familiarity with the proofs necessary to establish the fact of insanity. Armed with this knowledge, much irrelevant testimony could be excluded, much time and expense saved, and the jury would be charged with something more than a mere guess-work apprehension of what are the sustainable proofs of lunacy, unsoundness of mind, or habitual drunkenness. At present, the persons ordinarily selected to act as such commissioners may have never tried such an issue before—and everything is new to them. The physical aspects, or the moral aspects of insanity, as contra-distinguished from eccentricity of character, strange religious beliefs, superstitions and the like, are equally a land of fogs to such investigators, and they are easily captivated with medical theories, which, if skillfully presented, they are unable to read through or confute, whether because fallacious in themselves, or simply furnishing false and deceptive analogies.

Under such circumstances, it is not difficult to understand why juries so often disagree, or an erroneous verdict is rendered justifying an appeal to a traverse, for a fresh presentation of the subject to the country. The expenses of these repeated trials of issues of insanity

are always a serious tax upon any estate, which in many cases the estate is illy able to bear. In order, therefore, to obviate these obstacles to a speedy administration of justice in the premises, and the securing to the lunatic the protection of the court as its ward, I would recommend that the Supreme Court, in each judicial district, be empowered to appoint in each county one or more counselors-at-law of at least ten years' standing at the bar, to be named masters in lunacy, some one of whom it shall be the duty of such court to appoint on each and every commission, or traverse in lunacy, as the chief commissioner or referee before whom such issue must be tried.

By such means we shall be educating a body of lawyers for trying these most difficult questions in every county in the State, and thus preparing the way for a cheaper determination of questions of lunacy than can now be obtained. Every fresh issue tried would add to the experience of these masters in lunacy, so that in time, courts would come to feel that their judgments were entitled to a weight of confidence, which no report of a casual referee could ever command.

To accomplish the purpose contemplated by the creation of the office of master in lunacy, no change in any part of our Code of Procedure would be necessary. The same forms, which now obtain upon trials of issues of insanity, would still obtain; the petition would be filed, and the commission would issue in the ordinary way; the precept to the sheriff and the venire; the impanneling of the jury and the execution of the commission, would all occur as before; with this difference, however, that an experienced master in lunacy would preside over the commission to guide it in its labors, and to direct its conclusions in a way best calculated to aid the court, in informing its conscience of the status of lunacy in the particular case. Nothing more is needed than a general act to empower the Supreme Court, as before shown, to appoint these masters, and to make them the exclusively presiding commissioners or referees in all issues of insanity.

COUNTY ASYLUMS.

The disposition of counties to care for their own chronic insane is steadily increasing, as a necessary consequence of the repletion of State asylums. This was to be expected, as well from the impossibility of enlarging existing asylums as rapidly as the insane increased, as also from the delays accompanying the completion of the new institutions at Buffalo and Poughkeepsie, and the immediate filling up of every fresh enlargement of the Willard Asylum. Under these circumstances, counties not finding immediate responses to their applications for the admission of their chronic insane at the Willard Asylum, betake themselves to making provision for them in their own poor-houses.

As it seems impossible to check this tendency, which is meeting with more and more popular assent, it becomes the part of wisdom and sagacity to divert it in the channel most conducive to the welfare of the insane. This can only be done by carrying out the policy established by the State in the erection of the Willard Asylum, which was to discourage the herding of insane in poor-houses, and consequently by forbidding the counties to keep such patients in any other than a building exclusively separate from the poor-house, together with a separate keeper, separate kitchen, separate attendants, and, in a word, with a distinctively different administration. Until this be done, there will continue to be, as at present, a constant attempt to fuse into one the poor-house

and insane department, on the ground that both classes of inmates being paupers, whatever is good enough for the one is good enough for the other. By the powers vested in the State Board of Charities by chapter 713 of the Laws of 1871, authorizing them to exempt certain counties from the operation of the Willard Act, after being satisfied that such counties had made suitable provision for their own chronic insane, by this authority given to a supervisory board, there seems to have been created a proper tribunal before which the expediency of excepting counties could be fairly tested, and the board, whenever applied to, has always proceeded in a deliberate manner, and by a committee of its own, to examine into the accommodations possessed by any county, and has satisfied itself of their suitability before granting the desired exemption.

As soon, however, as any counties were refused this exemption, instead of better qualifying themselves to apply for it, and then renewing their petition to the State Board of Charities, they have proceeded directly to the Legislature and obtained it, without, it is very evident, any previous ascertainment on its part of the accommodations possessed by such counties. It is needless to speak of the wrong thus done to the welfare of the insane, and the blow thus given to the powers vested in the State Board of Charities. These powers have been in fact wholly nullified by such acts of the Legislature, so that any county to-day may, in utter disregard of the objections imposed upon them by any preceding laws, go directly to the Legislature and secure, regardless of its incompetency for the trust, an act empowering it to take charge of its chronic insane.

Thus, in the instance of Clinton county, a committee of the State Board of Charities, after visiting the asylum intended for its chronic insane, reported adversely to granting any exemption from the operations of the Willard Act. Nevertheless, the county authorities subsequently obtained from the Legislature, by chapter 360, Laws of 1877, permission to do so, although it is doubtful whether the Legislature were informed of the previous refusal of the State Board of Charities. An inspection of the building made by me in July last, affords convincing proof of the entire unfitness of the place for the care and safe-keeping of any class of the insane. There is but one poor-house building into which are housed paupers, lunatics and criminals. The third story on each side of the building is dedicated to the use of the insane, with whom are also lodged some children belonging to attendants. The accommodations for these lunatics are inferior, in every sense, and insufficient. There are closets without any running water in them, and a constant fœtor was present in the ward during my inspection. The general appearance of everything was squalid, and it was evident that there were no adequate means to make it otherwise. Of twelve male lunatics in the house three were in restraint, one being chained by the ankle in a strong cell in the basement. If it may be said in extenuation of this, that no better means of restraint was possible there, the reply comes at once, that the county not being suitably provided with accommodations, should not have been granted permission to care for its own insane. But this privilege having been granted by the Legislature, on the basis that such accommodations were in fact adequate, it becomes extremely difficult for the Commissioner to apply any suitable remedy short of declaring that such accommodations never had been in fact what they professed to be, were not so still, and that they should either be furnished

in the form of a separate building, properly equipped, or else that the grant of power should be withdrawn from the county, and its insane returned to the appropriate State asylums.

In Rockland county, a brick building three stories high has recently been erected for the accommodation of its chronic insane. There are ten rooms on each story, with bath-room and closet attached. These rooms are from seven feet four inches to seven feet nine inches wide by ten and one-half feet long. There is a stairway at each end of the halls, and water tanks in the attic. The building is heated by hot-air flues, and will accommodate about forty patients.

One grave error in construction was that of sinking the building so low as to leave a deep ditch around it. At the date of inspection, no railing surrounded it. These defects were pointed out, as also the absence of window guards in the attic story. A large cess-pool in the north-west side of the house, and too near for safety, has also been constructed. On the southwest side there is a cistern capable of containing 9,000 gallons of water, and furnishing an abundant supply for the use of the house.

In Queens county, the old court-house has been converted at comparatively little expense, into an asylum for the chronic insane, capable of accommodating over sixty patients. After an appropriate inspection by a committee of the State Board of Charities, the building was accepted, and the county granted the desired exemption from the operations of the Willard Act. This building, although old, was found to be capable of restoration to a sufficient degree for all the purposes of a temporary asylum, it being the intention of the county, at no distant day, to erect an edifice large enough to accommodate all its insane, and to equip it in every particular, as becomes a curative as well as a custodial institution. In the present building the two wards are upon the second story, with an attached wing on the west side, giving a kitchen below and sleeping apartments above. A large laundry has been constructed, a new well dug, also cisterns and a cess-pool; there is a suitable bath and wash-room, and fire escapes on the outside of the building. The yards have been properly distributed and arranged, so as to combine security with comfort.

The local visiting committee and the Commissioner, after frequent inspections, are satisfied that the institution is a credit to the county, and a record of honorable administration on the part of those who have supervised its construction, provided for its wants, or superintended its domestic concerns.

The Jefferson County Asylum, after having been for many years in a state of such deterioration as to compel the State Board of Charities to withdraw its exemption, has this summer undergone renovation. The present building is hardly large enough for the uses to which it is applied, and its wards will soon again overflow as in the past. The length of time during which it was permitted to remain in an unfit condition for the care of the class of patients confined in it does not reflect credit upon the county, and the present repairs, it is to be hoped, will not be accepted as the final provision which a county of such resources is destined to make for its insane citizens. Something better should be done in the way of a structure, and that at the earliest possible day. The present renovation at best is only a make-shift.

The Genesee County Asylum needs also an entire internal renovation. The rooms are too small, the ceilings too low, and everything about its

wards is cramped. Yet this county was empowered by chapter 142 of the Laws of 1877 to care for its indigent, in addition to its pauper insane.

The problem of caring for the insane in county asylums has been so uniformly discussed by the Commissioner in his annual reports that he has nothing new to say upon it. It will be sufficient to quote from last year's report, what to him seems to cover the whole field of inquiry, and to exhibit the causes that have operated to disappoint expectations in the management of these institutions:

"Many counties, feeling the cost of transportation and the inconvenience of having lunatics at so great a distance as they often are from their homes, are moving towards obtaining permission either from the State Board of Charities or the Legislature to care for their chronic insane. The wish is a natural one, since few paupers are without relatives or friends in their own localities, who form part of the tax-payers of the county, and who, therefore, have some voice in the administration of its local charities. These persons in time create a public sentiment in favor of establishing local asylums, and gradually, as counties find the State asylums crowded and anxious to be rid of their chronic cases, they use this as an opportunity to ask for the organization of special asylums of their own.

"Experience shows, however, that the hopes of good care and proper medical supervision held out at the inauguration of county asylums have not, in the majority of instances, been realized; and that from their usual contiguity to poor-houses they seem, in a large degree, to be assimilated to them in administration. This arises from the fact that the officers elected to govern our public charities interpret their functions to be, as their title imports, either superintendents or overseers of the *poor*. They do not, in consequence, know the insane poor, except as paupers; and this term describing an entire class, it follows that they feel themselves acquitted of their whole duty when they provide for the support of paupers as paupers, and irrespective of their insanity. This is the general rule in asylums where no resident medical officers are to be found to impart to its administration that hospital character which justifies the employment of all means necessary to treat insanity as a disease, and not as a variety merely of pauperism. For, in order to treat insanity as a disease, we need not only a separate department distinct from a poor-house, but constant medical supervision, together with appropriate food, drugs, rooms, furniture, grounds and general surroundings, and lastly with sufficient space to always prevent over-crowding of patients in-doors or out. These things need to be provided not only at the inception of an asylum, but constantly repaired and added to in proportion to the increase in the number of patients. It is here that most of our county officers fail in their duty to the insane. They temporize with necessities in provision, and delay making them in the hope that they may escape the obligation."

This will not be wondered at, when it is remembered that the governing boards of these asylums, whether supervisors or superintendents of the poor, are frequently, if not annually changed. And that no sooner are boards of officers instructed in the wants of such an institution than their term of office expires, and a new set of men come in to take their places, who, being official apprentices, must in like manner pass through a period of probation. Thus, from year to year, a spirit of competition is engendered in new boards of officers to cut down and to cheapen supplies, so as to be able to show a better record than their predecessors—and all this at the expense of the insane.

REPAIRS, ADDITIONS AND IMPROVEMENTS MADE IN COUNTY ASYLUMS
DURING THE YEAR 1878.

Albany.—Painting and two new heaters.

Broome.—A brick fire-proof building 18 by 24 feet, with an addition 14 by 14 feet, has been constructed as a dining-room and kitchen for the insane. The same has been painted and furnished throughout. The wood-sheds and wagon-house have been enlarged; the paupers' kitchen newly floored and enlarged. A building 26 by 35 feet, occupied by paupers has been raised, and cells attached. The keeper's rooms, and the floors of the male insane, and pauper departments have been painted.

Cayuga.—Out-buildings and yard fence painted.

Chautauqua.—Heating apparatus repaired, and new beds and bedsteads put in.

Chenango.—An addition 32 by 32 feet, and three stories high, has been built, with accommodations for sixteen more patients. The buildings have been repainted and necessary furniture provided.

Clinton.—One new water-closet added, and gratings put on windows and fan-lights. Rooms ceiled and repainted.

Columbia.—A brick building 17 by 28 feet has recently been erected, containing two stories, and with a ward on each floor, capable of accommodating fifteen patients of each sex. This building has been newly furnished throughout.

Cortland.—An addition has been made to the former building, thereby enlarging the dining-rooms, and making both a kitchen, and also an attendant's room on the first floor. The second floor is divided into two dormitories, one for each sex; these giving accommodations for twelve or fourteen more.

Poughkeepsie City Alms-house.—The rooms have been enlarged, new walls made, painting and new bedsteads.

Essex.—A building attached to the county house has been fitted up as a ward for idiots. It has been thoroughly repaired and painted. It contains cells for refractory patients and others.

Franklin.—The building has been newly roofed.

Genesee.—Two new bath-tubs put in; one large tank in attic added, from which to supply them with water. Every part of the asylum repainted.

Jefferson.—The whole interior of the asylum has been renovated, including floor, partitions, ceilings, etc.

Livingston.—Asylum, alms-house, fences and out-buildings, all repainted.

Madison.—A new poor-house has been built, with an insane department capable of containing eighteen patients; and an old building has been retained for the insane which will accommodate twenty. New furniture has been added, viz.: One extension table, twelve chairs, twenty bedsteads and one settee.

Montgomery.—New accommodations added for ten female patients. Wood work of asylum repainted. Twenty-four iron bedsteads, with bedding; five dozen earthen plates, and quart bowls added.

New York.—In this county very considerable additions have been made to the female asylum, on Blackwell's Island. An entire new story has been added on the central building, by raising the roof and converting it into a mansard floor, thus making provision for the accommodation of 150 additional patients. The most important benefit to be

secured by this change, will be that of affording an opportunity for a better classification of the insane, and supplying more room for the treatment of acute cases. Heretofore this institution, although provided with two annexes in the form of a lodge and a retreat, has yet been unable, from the over-crowded state of those buildings, to separate and classify its patients as accurately as they needed to be for purposes of cure. Much unjust blame has in consequence been cast upon the Commissioners of Charities, for not doing that which it was clearly out of their power to do. No one was more aware of the necessity of enlarging the capacity of this asylum than the Commissioners themselves, nor more anxious to obtain the means for doing so. They have frequently conferred with, and consulted me upon this subject, and all their plans were freely subjected to my criticism. The delays incidental to securing the means for improving this institution belong to a series of circumstances in the financial history of the county of New York, which time alone could remove. They cannot justly be laid at the door, either of the Commissioners of Charities or of the board of apportionment.

The medical superintendent furnishes the following items of information, touching the improvements made in this asylum during the past year:

"A large exercise yard, 200 feet in length and 100 feet wide, has been added to the lodge; in this yard a pagoda, containing a swing and a hobby-horse, have been erected for the purpose of affording not only shelter from the sun and weather, but also amusement and recreation to the patients who have access thereto.

"The retreat court has been increased in size by nearly one-half, newly fenced in and graded, and that of the main building much improved. All the walks throughout these courts have been thoroughly drained and macadamized.

"Two lofty, well-ventilated halls, each one capable of accommodating sixty patients, have been added to the main structure, by the raising of each wing of the building one story in height.

"Extensions have also been built in the middle of each wing, affording to every separate hall a spacious, well-lighted and airy sitting-room for the accommodation of the patients during the day. By the accession of these we have been enabled to convert into bedrooms the two rooms formerly used as sitting-rooms in each of the halls.

"A handsome and elaborate stone steps have been built at the entrance outside the octagon, communicating directly to the offices of the medical superintendent and the public parlor, on the second floor, forming a far more suitable and accessible means of ingress than that previously in use through the lower hallway.

"New roads have been made and graded, and the old ones repaired and kept in order. As a whole, the improvements of the past year have been very extensive, and have added greatly to our comfort, for at present the necessity for over-crowding is entirely obviated.

"The staff of female attendants has been increased from fifty-seven to seventy-six, so that each one has a far less number of patients to look after than she had formerly, and can consequently take better care of those under her immediate supervision.

"The dietary scale has been fully carried out throughout the year, and its salutary effects have distinctly manifested themselves by the increase in the number of recoveries.

"In a like spirit of improvement on Ward's Island, an additional wing

is being erected at the male asylum. In laying its foundation, and carrying them up to the water-table, the labor has been almost entirely performed by patients during the past season. It is estimated that in this way between \$30,000 and \$40,000 will be saved to the county in the aggregate cost of the structure. A large brick building for the chronic class has also been obtained from the Commissioners of Emigration, in the form of one of their disused hospitals, which accommodate nearly 300 patients. And on Hart's Island some pavilions have been erected for receiving quiet and demented patients to the number of about 100."

Niagara.—Insane department painted and grained throughout.

Newburgh City Alms-house.—Repainted.

Oneida.—The additions to the asylums commenced last year have been completed. Forty more patients can be accommodated. The additions in furniture consist of seventy single bedsteads, with necessary bedding; seventy-five arm-chairs, twenty dozen common and table chairs, and two tables.

Onondaga.—No other than necessary repairs and painting to keep up the original condition of things.

Orange.—The whole inside of the old part of the asylum has been remodeled and renewed; new work-room, bath-room and kitchen arrangements, with improvements, have been made, and new walls and floors put in. An additional matron has also been provided.

Orleans.—A new building has been erected for the accommodation of all the inmates of the county house, including the insane department, with accommodations for ten more insane.

Oswego.—An extension of twenty feet has been made to the main building, now making it in size twenty by forty feet, with three stories and a basement kitchen capable of accommodating twenty-four patients. Sixteen cells have been transformed into four dormitories. The whole inside has been repapered and repainted, steam has now been applied to cooking purposes, and one stove, six chairs, two bedsteads, and two wash-stands added, with some new carpeting.

Otsego.—Buildings repainted inside and out, and furnaces repaired.

Queens.—Two large sheds in the exercise yards have been built. Three small sleeping-rooms have been made out of one very large room (formerly a court-room), and a hall 32 feet by 9 wide. The outside of the building has received two coats of paint, and one large chimney has been built in the laundry.

Richmond.—Repairs have been made to the hospital to the amount of \$100, also twelve new chairs added.

Rockland.—A new building of brick, three stories high, and capable of accommodating forty patients, has just been erected. It is not yet occupied.

St. Lawrence.—Building repainted inside.

Ulster.—Some general repairs made.

Wayne.—Inside of building entirely repainted.

Yates.—A stone house (no description given) has recently been built at a cost of \$10,000, capable of accommodating fifty patients.

NEW ASYLUM FOR IDIOTS.

The Commissioner has, in each recurring annual report, called the attention of the Legislature to the need of some provisions for the care

and supervision of adult idiots. The State asylum was designed for feeble-minded children alone of a teachable character, and to them, even, its doors are only open for a limited period, so that adult members are practically without any other homes than the poor-houses, into which they must ultimately return. The risks to which female idiots are exposed in these alms-houses can readily be imagined, and the consequences in illegitimate births which have occurred there, moved the State Board of Charities last year to obtain an appropriation for the purpose of establishing a protectory designed to shield this class of females during the child-bearing period. The following is the language of this appropriation, and its specific objects, viz.: "For the support and maintenance of adult, idiotic and feeble-minded females, at an experimental, custodial asylum, under the management of the Trustees of the New York State Asylum for Idiots, the sum of \$18,000." A building has accordingly been secured at Newark in Wayne county, where, early in October, there were already collected between thirty and fifty inmates. As so small an appropriation can not last beyond the year, it is desirable that it should be continued, in order to give full opportunity to test this experimental enterprise.

NEED OF AN EPILEPTIC HOSPITAL.

The Commissioner, in every one of his annual reports, has called the attention of the Legislature to the pressing need of an asylum for epileptics. Their number is constantly increasing, and the necessity for housing them somewhere under enforced seclusion leads to their commitment to insane asylums, as the only suitable receptacles for them. There are at present 576 such persons in the various State and county asylums. Epileptics are very generally a disturbing element in the population of an insane asylum. From the often masked and uncertain character of their disease they need a more stringent supervision than the insane, because liable to sudden and unannounced explosions of violence, tending to the commission of bodily harm. Such persons being often sane enough to exercise all proper care and self-control during the intervals of their convulsions, are in that sense a class by themselves, and, as such, should not, if possible, be permanently included among lunatics. A separate institution should, in consequence, be assigned to these as a measure of precaution and protection as well as an instrument of cure.

EMPLOYMENT OF THE INSANE.

Out-door labor, which is so beneficial to the health of the sane, has been found to be equally efficacious in the cure of the insane. It is therefore resorted to in all our asylums according to the varying condition of patients and the opportunities for giving them suitable occupation. In the absence of land on which to work, or of shops in which to carry on mechanic arts of a simple character, it is difficult to find proper employment for any large body of the insane. This is now so generally recognized that, at almost every asylum in the State, however small, land is the first instrument of treatment secured, next to a building. All our State asylums, with the single exception of the one for insane criminals, being provided with large farms, the rule of employing as many patients in field labor as possible has always been enforced. But exactly what this proportion should be, cannot be predicated upon the aggregate number of those present in the institution. The labor of an insane per-

son is something always voluntary. While persuasion or rewards may be used to induce its performance, coercion cannot. It will depend, therefore, very largely upon the previous habits of occupation of the patient himself, a man accustomed to out-door labor necessarily craving that form of employment more naturally than one whose occupations have been sedentary.

Again, and as contrasted with European asylums, the percentage of female patients employed in out-door labor in the United States amounts to almost nothing. The female peasantry of Europe work as generally in the fields as in the house. There is no agricultural labor, in fact, which the women do not share with the men. Consequently, among their insane population, the proportion of females laboring out of doors does not present such a disparity with males as in our country. Our foreign population is setting us a good example in showing, as in the market-gardening practiced by the Germans, the value of female labor in cultivating the soil. Were this custom generally introduced among our own people, there would be a corresponding improvement in health, in domestic thrift, and in capacity of self-support. Women would not be mere house-plants as they now are, fragile, hysterical and dependent; and when insane they would have in and out-door labor a means of improvement from which their present habits of life exclude them.

In relation, however, to the proportion of patients actually employed in occupations of all kinds, whether in-door or out, at our various asylums, the number will be found to vary considerably and for obvious reasons. Thus, in Suffolk county, over 80 per cent are habitually employed; in Chautauqua and Erie counties, 40, and in all other institutions from which any reports have been received from 10 to 40, with the exception of the Poughkeepsie Asylum, where it reaches 60. Even the Willard Asylum, which receives only the broken-down and most useless of the chronic cases from the other asylums, has raised the scale of employment to over 25 per cent, and the aggregate saving of such labor to the State annually is estimated by its superintendent at \$25,864. Since employment, however, must be looked upon in the light of medical treatment, rather than of economy, no general rules can be laid down in relation to it. Nor can there be any very accurate computation made of its money-value as a saving to the institution, because all the insane who work, do not work continuously and like ordinary day-laborers. Such persons more truly work by spells. And although the figures given in the table below do not pretend to be more than approximate computations, they still show that the labor of the insane is not wholly valueless. The problem is one, evidently, about which legislation cannot concern itself. It rests exclusively upon the physical and mental condition of individual patients, and no one, therefore, not acquainted with those conditions, can, from a distance, and upon the basis of figures alone, undertake to pronounce any opinion upon the subject. Each medical superintendent is by law constituted the exclusive judge of the particular form or forms of medical treatment required by his patients, and the fact that in any one institution a certain number of the insane are found capable of laboring out of doors, or in-doors, with benefit, no more proves that the same ratio can be applied to any other institution, than the fact of the amount of any particular medicine. Each aggregation of lunatics will present features peculiar to themselves in respect to the treatment necessary for their cure. From an inspection of the work done at our State, and in many of our county asylums, I am satisfied that

their superintendents obtain as much, if not all the labor from the insane which it is safe and beneficial to their mental renovation to secure. It is a thing which never can be made a matter of coercion, but must be left to persuasion, or free-will, as the case may be.

Nor should the question of self-support ever be associated with the problem of occupation. The insane are sick persons who need restful and recreative treatment, and the State in building hospitals for their cure does not contemplate that their inmates, like those of prisons, shall labor to diminish the cost of their own support. The primary and sole consideration in the labor of the insane is the benefit which may accrue to them from its practice, and not to the asylum or the State.

In order to determine the extent to which labor is habitually performed in our various asylums, and its saving value to these institutions, the following circular was accordingly despatched to their superintendents. The answers returned show very conclusively that the problem of employment for the insane, whether in-door or out, is one of increasing interest in all our institutions; and that while combining health with economy, it also tends to cultivate habits of industry, looking to future self-support, when the patient shall have recovered from his malady. In this way the asylum becomes a reformatory of habits, as well as a curative hospital to its patients. It teaches them the art of employing time profitably, and of developing whatever of industrial capacity they may possess. Whenever such influences, therefore, can be brought to bear upon the uneducated classes of society, in order to awaken in them the self-respect which flows from the consciousness of self-support, then the moral paralysis, which so commonly benumbs the will-power of the chronic pauper, may often be overcome by an antagonizing force from within, not previously exercised by its possessor:

OFFICE OF THE STATE COMMISSIONER IN LUNACY, }
 ROSLYN, N. Y., November 1, 1878. }

To the Superintendent of the Asylum:

DEAR SIR—I am anxious to embody in my next annual report to the Legislature some facts as well as statistics relating to the amount and approximate value of the labor performed by patients in asylums. You will oblige me, therefore, by answering the following questions, not limiting yourself to mere categorical replies, but imparting any additional information which may serve to illustrate the point upon which the interrogatory more directly bears.

First.—What is the average *percentage* of male patients daily employed in some useful labor, whether farm, or otherwise? What is the average in winter? What is the average in summer?

Second.—What is the average *percentage* of female patients daily employed?

Third.—How much is probably saved to the institution annually by the employment of male patients in services for which otherwise hired laborers would be necessary?

Fourth.—How much is, in like manner, saved to the institution annually by the employment of female patients?

Fifth.—What proportion of the making and repairing of bedding, or personal clothing, is accomplished by the labor of patients?

Sixth.—In any building, or repairing of buildings, laying of foundations, construction of roads, grading of lawns, or any other work not generally designated as "farm labor," which may have occurred at your institution during the past year, what proportion of such work has been accomplished by patients, and how much has it saved to the institution in otherwise necessary expenditure?

Very respectfully yours,

JOHN ORDRONAU,

State Commissioner in Lunacy.

NEW YORK STATE LUNATIC ASYLUM, }
 UTICA, N. Y., December 5, 1878. }

To JOHN ORDONAU, *State Commissioner in Lunacy*:

DEAR SIR—I have your letter in regard to the statistics and approximate value of the labor performed by patients in asylums. I enclose table giving the monthly exhibit of the work performed by both men and women patients during the year ending December 1, 1878.

I would respectfully refer you to the Thirty-third Annual Report of this institution, a copy of which I send you, in which my views are expressed at length in regard to the subject of occupation in asylums. I also enclose a tabulated statement of the days' work performed by men during the past seventeen years.

I am, very respectfully yours,

JOHN P. GRAY.

STATE LUNATIC ASYLUM.

From December 1, 1877, to January 1, 1878.	Days' work performed by men patients.	Days' work performed by women patients.
December	2,407	2,964
January.....	1,942	3,001
February.....	1,832	2,930
March.....	2,022	2,730
April.....	2,827	2,737
May.....	3,933	2,539
June.....	3,540	2,480
July.....	3,689	2,468
August.....	3,709	2,969
September.....	3,494	2,937
October.....	3,256	2,707
November.....	2,368	2,763
	35,019	33,225

The following table shows the number of days of work performed by the men patients in the asylum, in each month during the past seventeen years:

	1861.	1862.	1863.	1864.	1865.	1866.	1867.	1868.	1869.	1870.	1871.	1872.	1873.	1874.	1875.	1876.	1877.
January.....	1,463	1,847	1,063	1,022	1,196	1,785	1,436	1,617	1,288	1,169	1,271	1,326	1,596	1,568	1,555	1,430	1,704
February.....	1,312	1,584	817	1,021	1,093	1,808	1,374	1,425	1,240	1,224	1,230	1,222	1,304	1,410	1,496	1,481	1,561
March.....	1,390	1,574	974	1,153	1,233	2,012	1,539	1,596	1,340	1,609	1,258	1,307	1,616	1,541	1,611	1,557	1,681
April.....	1,424	1,223	1,321	1,200	1,552	2,191	1,571	1,707	2,044	1,578	1,564	1,469	1,582	1,572	1,476	1,399	2,001
May.....	1,754	1,512	1,859	1,349	1,916	2,230	1,765	2,300	2,413	2,004	1,999	1,716	2,006	1,748	1,774	1,803	2,389
June.....	1,617	1,375	1,573	1,727	1,789	2,143	2,054	2,586	2,549	2,202	2,087	1,553	1,709	1,871	1,853	2,008	2,363
July.....	1,762	1,762	1,477	1,715	1,759	2,201	2,217	2,441	2,442	2,071	1,993	1,798	1,813	1,824	1,887	1,800	2,420
August.....	1,822	1,390	1,027	1,516	2,048	1,967	2,143	1,951	1,831	1,957	2,043	1,875	1,770	1,814	2,023	1,541	2,758
September.....	1,873	1,482	1,122	1,634	1,871	1,772	1,784	1,927	1,874	1,887	2,230	1,773	1,810	1,659	1,967	1,758	2,639
October.....	1,748	1,370	1,268	1,474	1,983	2,136	1,823	1,820	1,874	1,772	1,995	2,212	1,710	1,735	1,766	1,806	2,635
November.....	1,639	1,281	1,242	1,331	1,623	1,570	1,429	1,335	1,359	1,432	1,428	1,683	1,500	1,417	1,720	1,523	2,021
December.....	1,660	1,218	979	1,211	1,358	1,393	1,039	1,280	1,226	1,506	1,482	1,378	1,641	1,639	1,765	1,605	1,971
Totals.....	19,594	17,618	14,712	16,353	19,421	23,208	20,174	22,035	21,480	20,411	20,580	19,312	20,117	19,798	20,893	19,911	26,141

The annexed extract from the report, above alluded to by Dr. Gray, presents the true aspect in which the question of labor should be considered in its association with the treatment of the insane in asylums.

My predecessor, Dr. Brigham, was a thoughtful man, and these are his words: "That many of the insane are benefited by labor, especially in the open air, is unquestionable, but let it not be supposed that all are. According to our experience, labor is rarely serviceable in recent cases, and not unfrequently injurious. It would be surprising if this were not the case, and would contradict all we know of the pathology of the disease. In recent cases of insanity there is increased arterial action of the brain, and labor would increase the circulation, especially with the head down, and be likely to aggravate the disorder. This is not merely an opinion unsupported by facts. I have repeatedly seen recent cases made worse by labor. * * * Incurable cases, instead of being imured in jails, and in the town and county poor-houses, without employment, where they are continually losing mind and becoming worse, should be placed in good asylums, and have employment on farms or in shops. In this way they would, in general, be rendered much happier, and some would probably recover.

"But there are other insane persons that ought not to labor, and some that will not, and to one or the other of these classes belong many that have been sent to this asylum. Many of the cases received here are of recent origin, and these, for reasons already given, ought not to labor, or they are violent and excited patients that cannot be induced to make the attempt."

After twenty-six years of experience here, I can more than echo this language. The great majority of those admitted to this institution are overworked and undernourished people of both sexes. Many of them are old and others are feeble, and suffer under chronic diseases and infirmities. They indeed need rest far more than work; rest of body and rest of mind.

When we look at the causes which lie at the foundation of the mental disorders, in the vast majority of those who come here, we can well realize this truth. These underlying causes, too, are largely traceable to the toils, anxieties and sacrifices in the discharge of the legitimate duties and responsibilities of life, and only in a minor measure to dissipations and vice. I repeat, the most need rest and suitable occupation for the time, in the nature of diversion rather than labor, of which latter they have had too much. We give them all the work they really need."

WILLARD, SENECA Co., December, 2, 1878.

Dr. JOHN ORDONAU, *Commissioner*:

MY DEAR SIR—In reply to your interrogatories contained in your letter of November first ult., I reply to your question:

First.—"What is the average *percentage* of male patients daily employed in some useful labor, whether farm or otherwise?"

"What is the average in winter?"

Ans. "Nineteen and one-half per cent.

"What is the average in summer?"

Ans. "Twenty-five and one-half per cent.

Second.—"What is the average *percentage* of female patients employed?"

Ans. "In summer, 34½; in winter, 34.

Third.—"How much is probably saved to the institution annually by the employment of male patients in services for which otherwise hired laborers would be necessary?"

Ans. "A reply to this question can be regarded only as approximating a correct answer, and must be received with the understanding that the male patients are

boarded, and that attendants supervise and direct their labor. The labor, therefore, is 'common' not 'skilled' labor. It must also be borne in mind that with labor to be obtained, some work which, while necessary and important, could have been postponed if the labor were to be paid for. I estimate the value of the labor to be \$17,500.

Fourth.—"How much is in like manner saved to the institution by the employment of female labor?"

Ans. "Five thousand three hundred and seventy-six dollars.

Fifth.—"What proportion of the making and repairing of bedding or personal clothing is accomplished by the labor of patients?"

Ans. "All bedding is made and repaired by the women; also, all women's clothing; all the men's underwear, and a few suits for men. The estimated value of this labor is \$1,488.36.

Sixth.—"In any building or repairing of buildings, laying of foundations, construction of roads, grading of lawns, etc., what proportion of such work has been done by patients?"

Ans. "No new building foundations have been undertaken on which patients have been employed. Roads, grading of lawns, setting trees, have occupied patients, and teams and attendants. The estimated value of patient labor is \$1,500."

A reply to your letter was delayed until the close of the year, November 30th ult., and the *percentage* given is correctly stated for that period. The money value is but an approximate estimate. In my last, ninth report, I said something upon the labor of patients, to which I refer to, page thirty-two. The number of patients sent here able and willing to labor is small. Such patients are retained at the county house. The results which we have are largely due to improvement in condition of patients.

Very respectfully yours,

JOHN B. CHAPIN,
Superintendent.

HUDSON RIVER STATE HOSPITAL,
POUGHKEEPSIE, November 30, 1878. }

JOHN ORDRONAU, M. D., *State Commissioner in Lunacy, Roslyn, N. Y.:*

DEAR SIR—The following answers are submitted in reply to your communication of the 1st instant:

First.—The average *percentage* of men patients daily employed in some useful labor, in and out-doors, for the year ending November 1st, was 52½. The average *percentage* of men patients employed in any way, in winter was 45, and in summer 60.

Second.—The average *percentage* of women patients daily employed, in any way was 43.

Third.—The out-door employment of men patients consists in farm and garden work, in milking and grooming the cows and the care of their stables, the removal and composting of manure, in grading and improving the grounds, and in building roads upon the place. The out-door working parties are engaged from three to four hours in the forenoon, and the same number of hours in the afternoon. This is the extent as regards time to which the insane can be thus employed, with advantage to their health. The quality and quantity of the service rendered by different individuals varies greatly; some patients are feeble, others have more strength; some are careless, listless and idle, or work by fits and starts, while others again are deft, persistent and energetic; then, too, the labor of all is frequently interrupted by resting-spells. Hence arises the difficulty in computing the value of their labor and comparing it with the service rendered by sane workmen. Some authorities claim that the labor of one sane is equivalent to that of three patients, while others state the proportion as one to five. Upon the latter calculation, ten hired men the year round, would be required for the service now performed by all the men patients here; and ten hired men, at fifty cents a day with board, would represent a money value of \$1,560. This estimate, however, falls far short, in reality, of the actual value of the service rendered by the patients during the past year, which it would be no exaggeration to rate as high as three times the amount stated, or at \$4,500.

Fourth.—The ordinary mending of patients' clothing for the whole house is done by the women patients, who also make the sheets, pillow-cases, chemises, shirts, etc., besides assisting in the care of their wards and dining-rooms, and helping in the laundry. The amount saved to the institution by these services is estimated at about \$2,500.

Fifth.—All the straw-ticks for bedding are emptied and filled by men patients, who also pick over and wash the hair of old mattresses.

Sixth.—In addition to farm labor proper, the men patients have dug a cellar fourteen feet by thirty-five feet for a tenement-house, and laid a wall for it seven feet high; they have built 1,000 feet of stone road, and 2,000 feet of graveled road; they have graded and put down to grass several acres of lawn; in the course of these improvements a large quantity of rock has been blasted and removed; 400 fruit and ornamental trees have been planted; a large amount of old wood has been collected and cut up for use in the boiler-house; a small amount of smith's work has been performed, etc.

Yours respectfully,

J. M. CLEVELAND,

Superintendent.

STATE ASYLUM FOR INSANE CRIMINALS, }
AUBURN, November 18, 1878. }

HON. JOHN ORDRONAU, *State Commissioner in Lunacy:*

DEAR SIR—In compliance with your request, I have the honor to submit the following answers to your questions concerning the employment of patients in this asylum.

1. About twenty-three (23) per cent of our male patients are employed daily throughout the year; about twenty-five (25) per cent in summer, and twenty (20) per cent in winter.

2. The average of female patients employed daily, summer and winter, is ten (10) per cent.

3. The amount saved in *skilled* labor alone, upon a careful estimate as to its value during the year, is \$2,360—by male patients, and \$600 in general work about the asylum and grounds, making a total of \$2,960.

4. By the employment of female patients, it is estimated that about \$200 is saved annually—making a grand total of \$3,160.

5. About thirty (30) per cent of the "making and repairing of bedding and personal clothing is accomplished by the labor of patients."

6. "In any building, or repairing of buildings, laying of foundations, construction of roads, grading of lawns," etc., which has been done at this institution during the past year, all of the labor, other than *skilled*, has been performed by patients.

Respecting the amount saved to the institution by such labor of patients, it is impossible, from the nature and method of performance of the work, to determine its value, but it is included in the estimate showing the total amount saved.

A much larger percentage of male patients could undoubtedly be employed, if there were connected with the asylum a sufficient amount of land.

With a farm of even 100 acres, suitably located, a much greater amount in labor, and the products of labor, could certainly be saved to the State than is now possible.

Inclosed please find your table properly made up. As it calls for the statistics for the year ending November 1, 1878, and as our year is the same as the fiscal year of the State, the table will not correspond exactly with those to be published in my annual report.

Very respectfully,

Your obedient servant,

CARLOS F. MACDONALD,

Superintendent.

THE AMOUNT AND APPROXIMATE VALUE OF THE LABOR PERFORMED BY
PATIENTS AT THE STATE HOMOEOPATHIC ASYLUM FOR THE INSANE.

	MALES.		FEMALES.	
	Average number of patients employed daily.	Money value.	Average number of patients employed daily.	Money value.
May.....	16	200	18	165
June.....	16	200	18	165
July.....	16	200	18	165
August.....	16	200	18	165
September.....	16	200	18	165
October.....	16	200	18	165
November.....	16	185	18	165
December.....	16	185	18	165
January.....	16	185	18	165
February.....	16	185	18	165
March.....	16	185	18	165
April.....	16	185	18	165

Section 1. Percentage of work performed by male patients (summer).....	28.
Percentage of work performed by male patients (winter).....	26.
Percentage of work performed by female patients.....	46.
Section 2. Percentage of patients at work, males.....	23.
Percentage of patients at work, females.....	22.5
Section 3. Percentage of labor performed by hired men on lawns, walks, etc....	25.3
Percentage of labor performed by patients on lawns, walks, etc....	74.7
Section 4. Percentage of labor performed by hired men at boiler-house.....	57.
Percentage of labor performed by patients at boiler-house.....	43.
Section 5. Percentage of work performed by seamstress (hired).....	21.7
Percentage of work performed by patients in sewing-room.....	78.3

The female patients perform the same amount of work in winter as in summer.

MALES.

Section 6. Amount saved annually by employing patients at boiler-house.....	\$540 00
Amount saved annually by employing patients on lawns, walks, etc.....	630 00
Amount saved annually by employing patients at general housework.....	720 00
Amount saved annually by employing patients in kitchen and laundry.....	240 00
Amount saved annually by employing patients at carpenter work.....	180 00
	<u>\$2,310 00</u>

FEMALES.

Section 7. Amount saved annually by employing patients in sewing-room.....	\$1,080 00
Amount saved annually by employing patients in laundry.....	300 00
Amount saved annually by employing patients at general housework.....	600 00
	<u>1,980 00</u>

Grand total..... \$4,290 00

SELDEN H. TALCOTT, M. D.,

Medical Superintendent.

NEW YORK CITY ASYLUM FOR THE INSANE, }
WARD'S ISLAND, December 3, 1878. }

Prof. JOHN ORDRONAUX, *State Commissioner in Lunacy*:

DEAR SIR—In answer to your inquiries, I have the honor to report as follows regarding the amount of labor performed by patients of this asylum, and its probable value. The answers are necessarily general in their character, specific estimates of the value of the different kinds of labor being, of course, impossible. Your second and fourth questions may be answered at once, by the statement that only *male* patients are treated in the asylum. To other questions I reply:

1st. The percentage of male patients daily employed in useful labor has increased considerably during the year, as additional attendants have from time to time been appointed. On the 1st of January, 154, or about 19 per cent of the population of the asylum, were so employed, while, on the 1st instant, there were 240, or about 25 per cent. The average has been 207 for the year round, and will not differ materially in summer and winter. Those patients who are employed on the farm in the former season working upon roads, etc., in the latter as often as the weather is favorable.

3d. In order to answer this question, I have thought it better to take account of the number of days' work performed rather than to attempt to estimate the value of each article made or piece of work accomplished. The average stated above—207—will give a total of 62,100. The present ordinary price of unskilled labor in the city may be taken as averaging \$1 a day—assuming that deductions for support, shorter hours, etc., reduce the value of the patient's labor by one-half, or to 50 cents, we have the saving to the institution represented by the sum of \$31,050. It will be remembered that this result is based upon the *average* number of patients performing daily labor during the year. As stated above, a larger number is now employed than at any time before, so that the present saving is proportionately increased.

5th. *All* repairing of clothing is done by the patients themselves—that is to say all tailoring work; repairs to shirts and under-garments and bedding are made by female prisoners, transferred from the work-house. There are at present nine patients working as tailors, who keep the clothing in repair, and the making of new articles also is being commenced; 18,472 different articles have been repaired by them in the past year.

6th. The answer to this question is included in that to the 3d question—of the number and amount then given, 30 patients and \$4,500 may be repeated in reply to the present question. Of these 30 patients, an average of 7 has been daily employed in the repair of buildings, 15 in laying the foundations of a new wing, 5 in the construction of roads, and 3 in grading.

Very respectfully,

A. E. MACDONALD,
Medical Superintendent.

FLATBUSH, L. I., November 31, 1878.

To the State Commissioner in Lunacy:

SIR—In answer to your questions, I have to say that at present I can only do so in a very general way. I give the number of patients that are at this present moment employed in this institution:

1st. I have at present 262 men, of these 20 patients assist in sweeping the halls, rooms, etc.; 46 do various kinds of light work inside the building, such as helping to scrub, assisting the nurses in various duties on the hall, carrying up meals, emptying the straw from soiled beds and refilling beds, etc.; 31 patients work out of doors, assist in gardening, clearing of yards, making such fires as have to be made; one or two assist carpenter, whitewasher and plasterer occasionally; one or two look after the lawn in front of the building. Average in winter and summer I am unable to give.

2d. I have 428 female patients, of these, 195 work; 54 assist in sweeping, scrubbing, etc., around the wards; 20 to 25 patients work each day in the sewing-room under the direction of a seamstress.

3d and 4th. I cannot give any idea how much is saved to the institution by the work of the patients.

5th. All the sheets, pillow-cases, shirts and under-clothes used in this institution are made by the patients in the sewing-room; the mending is also done by them in great part—the articles are cut and sent to us and the making of them done here.

This is about the number of patients employed in the past year.

The making of sheets, etc., by the patients has been a custom in this institution for years past.

I am, sir, yours respectfully,

JOHN C. SHAW, M. D.,
Medical Superintendent.

KINGS COUNTY LUNATIC ASYLUM.

This institution has again compelled the Commissioner to exercise the supervisory powers of his office, on the occasion of a recent change in its medical superintendency. Dr. R. L. Parsons, an experienced alienist physician, who, after a long term of successful service on Blackwell's Island, had accepted the position of Superintendent of the Flatbush Asylum in August, 1877, was, after a year of service therein, notified by the Commissioners of Charities of Kings County, on the 1st day of August, 1878, that his services would no longer be required after the 31st inst. At and about the time of this notification, as appears from his statement, several of these Commissioners informed him that they had no fault to find, either with his personal behavior or his administration, and that his dismissal rested upon different grounds. These facts having been brought to my notice by legal evidence, sufficient to raise a strong presumption, that the Commissioners of Charities of Kings County were tampering with the medical welfare of the lunatics committed to their charge, and thus frustrating one of the most essential of the trusts confided to them by the State in its grant of power to them to care for the insane of Kings county, I accordingly felt it my duty to interfere, for the purpose of ascertaining what reasons existed, if any, on their part for the action thus taken by them.

No fact can be more self-evident in the practice of the healing art, than that the physician who ministers to disordered minds, requires a longer time to gain the confidence of his patients, and a more intimate insight into their whole moral and mental character, than he who administers only to their more visible and external physical necessities; hence weeks and months of study are frequently required, in order to determine the proper phase of mental disorder under which a patient labors, and the treatment best suited to meet his particular condition, and to insure his most speedy recovery. These facts in the economy of our nature are recognized not only by physicians, but by jurists also, and are inscribed among the canons of our jurisprudence. (*Matter of Hanks*, 3 Johns, ch. 567.)

Our Revised Statutes, accordingly, have adopted these facts as among the rubrics of medical practice, and enacted in obedience to their spirit, that a year at least shall be necessary to determine, whether a lunatic has passed beyond the sphere of probable curability, and become presumptively a chronic case.

Under these circumstances, the frequent or unnecessary removal of the medical superintendent of an asylum, can not only impart no benefit to the patients therein, but, on the contrary, is opposed to every principle of experience in the treatment of the insane, and a possible detriment to the progress of their recovery. In fact, the law of usage in this State, which may be supposed to rest upon extended observation, has always moved in the direction of retaining superintendents of lunatic asylums in place during good behavior and capacity to discharge their duties. There has been no exception to this rule, outside of Kings county. To make frequent changes, therefore, in the medical superintendent of an asylum, is simply to expose the patients therein to the risk of innovations in treatment, or, in other words, to fresh experiments upon their feelings and their disease. Believing that such a course, was opposed to the best interests of the insane in the Kings County Asylum, the Commissioner in the exercise of that visitatorial power, which

authorizes him to rectify any existing errors, or to prevent any impending wrongs in the administration of our insane asylums, did issue on the 21st day of August, an order to the Commissioners of Charities of Kings County, based upon the following petition and exhibit annexed thereto:

To the Honorable JOHN ORDRONAU, *State Commissioner in Lunacy of the State of New York*:

The petition of Henry B. Hewitt respectfully shows to this honorable court, that he is a resident and a tax-payer in the county of Kings, State of New York, residing at No. 163 Prospect place, in the city of Brooklyn; that he has been informed through the public prints, and believes to be true, and has obtained from Dr. Ralph L. Parsons, Medical Superintendent of the Kings County Lunatic Asylum, the communication hereto annexed, showing the fact that the Commissioners of Charities of the County of Kings, the governing body of the Kings County Lunatic Asylum, have passed a resolution by which they design to dispense with the services of said Dr. R. L. Parsons as medical superintendent of said asylum on and after September, 1, 1878.

That no charges of any kind, affecting the executive, moral, or professional character of said Dr. R. L. Parsons have been presented by said Commissioners.

That frequent changes in the superintendency of said asylum have been made during the last five years; that such changes have been the means of impairing, and must of necessity impair the skillful medical care and proper supervision of the inmates of said asylum; and that such changes have served to weaken public confidence in the usefulness of said asylum as an hospital for the insane.

That said Dr. Parsons was appointed to said office one year ago, under certain, well-defined principles of management, among which were that his tenure of office should be during good behavior.

That he has served the State in the capacity of a specialist in the treatment of the insane for a period of about fifteen years.

That, as your petitioner is informed and believes, the said Commissioners have nominated to the position of Medical Superintendent of the Kings County Lunatic Asylum a gentleman who has had no special experience in the treatment of the insane, or the management of asylums for the insane.

Wherefore, your petitioner prays that this honorable court may make such order in the premises, as to it shall seem just and meet, to the end that the Kings County Lunatic Asylum may not be harmed as a public charity; and that the inmates thereof may not be deprived of adequate, skillful medical care and supervision; and your petitioner will ever pray.

Dated BROOKLYN, COUNTY OF KINGS, N. Y., August 20, 1878.

H. B. HEWITT.

STATE OF NEW YORK, }
County of New York, } ss.:

Henry B. Hewitt, being duly sworn, says that he is the petitioner named in the foregoing petition; that he has read the same and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, he believes it to be true.

HENRY B. HEWITT.

Sworn to before me, this 20th }
day of August, 1878, }

JOHN M. BURT,

Notary Public, Kings County.

(Certificate filed in New York.)

COMMISSIONERS' OFFICE, COURT HOUSE, }
August 1, 1878. }

Dr. R. L. PARSONS:

DEAR SIR—At a special meeting of the Board of Commissioners of Charities, held this day, a resolution was adopted of which the following is a copy:

Resolved, That the clerk of this board be instructed to notify Dr. R. L. Parsons, Medical Superintendent of the Lunatic Asylum, that his services will not be required

after the 31st of August, 1878, and that his salary for the month of August has been fixed at \$208.33.

Yours respectfully,

S. V. STILLWELL,
Secretary.

Upon these facts so established in evidence, the following order was therefore issued to the Commissioners of Charities:

The People of the State of New York to the Commissioners of Charities of the County of Kings, greeting:

WHEREAS, It has been made to appear to my satisfaction, by the evidence of Henry B. Hewitt, a resident and tax-payer in the county of Kings, that Ralph L. Parsons, M. D., Medical Superintendent of the Kings County Lunatic Asylum, has been notified by you, the Commissioners of Charities of the County of Kings, of his removal from such office without any cause, and for no reason assigned; and,

WHEREAS, Frequent changes in the chief medical officer in asylums for the insane are calculated, in my opinion, to impair that skillful medical care and supervision, which is derived from long personal acquaintance with and study of the individual phases of insanity, and which such changes in the administration of in the Kings County Lunatic Asylum have been frequent in the past, and have served to weaken public confidence in its usefulness as an hospital for the insane in that county;

Now, therefore, in the name of the People of the State of New York, and by virtue of the power and authority specially vested in our office, we command you to retain the said Ralph L. Parsons, M. D., as such Medical Superintendent of the Kings County Lunatic Asylum, until good and sufficient cause be shown to you for his removal, and that you take such official proceedings upon this order as are required to obey the same, and how you shall have obeyed this our order, make return to me, on the 30th day of August, 1878, at my office, at No. 271 Broadway, in the city of New York, at eleven o'clock in the forenoon of that day.

Dated at New York, this 21st day of August, 1878.

[L. s.]

JNO. ORDRONAUX,

State Commissioner in Lunacy.

The order of the State Commissioner simply required the Commissioners of Charities to do that which it was their duty to have done before removing Dr. Parsons; that is to say, to have found and put upon their minutes good and sufficient reasons for such removal. This they neglected to do, or purposely refrained from doing, for reasons best known to themselves. Being a public act, done in their official capacity, and relating to the most important functionary in their county lunatic asylum, this omission was a sufficiently grave dereliction of duty towards the State, as well as the citizens of Kings county, to make it the duty of the Commissioner in Lunacy to take action thereon. For the laws governing the administration of any lunatic asylum in New York are not the by-laws or ordinances made by any corporation or board of managers at will, but the laws framed by the Legislature for the general managements of such institutions, keeping in view always the safety, comfort and recovery of the patients confined therein.

Inasmuch, however, as the Commissioners of Charities are a corporation, constituted by law the governors of the Kings County Asylum, the State Commissioner in Lunacy, as the visitor of a public charity, had to be guided in his conduct by the statutes governing that charity.

These Commissioners have by law the exclusive power of appointing and removing their own servants. In this function, therefore, the State Commissioner could not supersede them by commanding them to retain Dr. Parsons against their wishes, particularly if there were any good reasons why they should remove him. To have done this would have been to usurp the appointing power specially vested in them by law. The State Commissioner could only rectify and control any abuse of this

power on their part, when in his opinion that abuse was likely to prove injurious to the insane committed to their keeping. But in any event he could only act in revision of some act of malfeasance previously committed by them, and his remedial powers must be exercised also through them, if possible; if not, then through the agency of the Supreme Court either in forbidding or commanding them to act. Hence he could not lawfully compel them to show good and sufficient reasons to him for Dr. Parsons' removal before those reasons existed to them. No reasons being entered upon their minutes, yet a removal having been made, which in the opinion of the State Commissioner was detrimental to the interests of their insane wards, it was first necessary to compel them to establish some reason for such removal, in order that the State Commissioner could consequently determine whether such reason was in fact valid and sustainable, as against the many evils likely to ensue to the well-being of the lunatics, from frequent changes in the medical superintendency of this particular asylum. Since then the State Commissioner, acting as the visitor of a public charity at common law, could only rectify the malfeasance of the Commissioners of Charities, by an order to them to proceed in a more legal way in their removal of Dr. Parsons, and to make return to the Commissioner of the manner in which his order had been obeyed, the terms of the order were of necessity couched in the form given above. It is now conclusively established from the opinion of Mr. Justice Gilbert, which follows that the powers vested in the State Commissioner, would have fully authorized him to require the Commissioners of Charities to show reasons satisfactory to the State Commissioner as well as to them for the removal of Dr. Parsons. But preceding this decision, and in the absence of any judicial interpretation of the powers of his office, the State Commissioner felt that in administering a statutory office through forms of special proceeding no power was to be assumed by implication, and consequently that doubtful powers were to be treated as non-existent.

To this order the following return was made by the counsel of the Commissioners, none of them having subscribed their names to it:

IN THE MATTER OF THE MEDICAL
SUPERINTENDENT OF THE KINGS
COUNTY LUNATIC ASYLUM.

To the Honorable JOHN ORDRONAU, *State Commissioner in Lunacy*:

The Commissioners of Charities of the County of Kings deny the jurisdiction of the State Commissioner in Lunacy to make the order dated at the city of New York, August 21st, 1878, and made returnable before him on the 30th of August, 1878, at his office, No. 271 Broadway, in said city, at 11 o'clock in the forenoon of that day, and which has been served on one of the said Commissioners, to wit: Thomas P. Norris, President of the Board, and on one of its employees, to wit: L. N. Stillwell, its Secretary, that inasmuch as the Board of Commissioners of Charities of said county is a public body, responsible to the people of the county for its official actions, and the management of the asylum concerns the public, the said board has submitted the question of the legality of its action to its counsel, who has advised it that it had a legal right to do what it has done in this matter. The preamble of the resolution calling for the opinion of said counsel, together with his opinion, are part of the minutes of said board, and accessible to the public and to the State Commissioner in Lunacy. That, as appears by these documents, the removal of the Medical Superintendent of the Lunatic Asylum was made by said board for reasons that, in the judgment of said board, justified his removal. That said removal was made by virtue of the legal power and authority vested in said board. That said board denies that

the effect of said removal will be as recited in said order. That said removal, in its judgment, will have a contrary effect. That said board protests against the intrusion of the State Commissioner in Lunacy into the domain of its jurisdiction.

WILLIAM SULLIVAN,

Counsel to the Board of Commissioners of Charities of Kings County.

This return being deemed frivolous and insufficient, and raising, moreover, a demurrer to the jurisdiction of the Commissioner in Lunacy, the facts were reported, under the statute, to the Supreme Court, and an order obtained from Justice Gilbert, on the 31st day of August, to the Commissioners of Charities to show cause why the order of the State Commissioner should not be confirmed, and mean while the removal of Dr. Parsons be stayed. The following is the return made to the court:

N. Y. SUPREME COURT—COUNTY OF KINGS.

IN THE MATTER OF THE KINGS COUNTY
LUNATIC ASYLUM. }

To the Supreme Court of the State of New York:

The certificate of John Ordronaux, State Commissioner in Lunacy of the State of New York, presents to this court:

I. That the petition of a citizen and tax-payer of the county of Kings, to-wit, Henry B. Hewitt, which said petition is hereto annexed, marked "Exhibit I," was duly presented to me on the 21st day of August, 1878.

II. That the circumstances and facts of such matters contained in said petition, together with the knowledge which by my office I am possessed of in respect to the management of insane asylums, and the condition of the Kings County Lunatic Asylum, were, in my opinion, sufficient to demand the interference of my office, for the protection of the insane inmates of the Kings County Lunatic Asylum.

III. That thereupon I issued under my hand and the seal of my office, according to the provisions embodied in the law in such case made and provided, and especially set forth in section 4, title 10, chapter 446, Laws of 1874, as amended by chapter 267, Laws of 1876, the order which is hereto annexed, marked "Exhibit II," and that such order was duly served upon the Commissioners of the county of Kings.

IV. That the Commissioners of Charities of the county of Kings are a body corporate, entrusted by the supreme power of the State with the custody of the insane of the county of Kings, and are accountable for the proper discharge of their trust to the State.

That the Legislature of the State has located the visitatorial powers, which by the common law and by the Constitution of the State, vest in the Supreme Court, in the office of the State Commissioner in Lunacy, in so far as to make him an adjunct officer to the Supreme Court, with all the powers of a referee appointed by said court, and in addition, the power peremptorily to command the redress of a wrong, or the application of a remedy in certain prescribed cases, and in his judgment.

V. That the Kings County Lunatic Asylum has been managed for a number of years past in a manner to demand the special watchfulness of the visiting power of the State, as fully appears from the reports of the State Commissioner in Lunacy, in the years 1874 and 1875, and that several changes have occurred since 1875 in the chief medical office, and that frequent investigation into the mismanagement of said Commissioners has been found necessary by the board of supervisors.

VI. That the said Commissioners of Charities appeared before me in obedience to my order, issued as aforesaid, by their counsel, and proceeded to make a return to me, in an informal and frivolous answer, which is hereby annexed, marked "Exhibit III," by which said document the authority and power vested in my said office by law is denied, and the jurisdiction of the State to exercise its sovereign power of supervision over its insane wards, through the person of its duly appointed officer, is opposed.

Whereupon it is made by official duty by law to report these facts to this honorable court, and to pray that it may issue an order to the said Commissioners of Charities of the county of Kings, commanding them to show cause on a day certain, why an order should not be made directing performance of the order of said Commissioner

in Lunacy, and that pending the hearing and determining of this matter, the said Commissioners be restrained from acting in the premises.

Witness my hand and seal of office at New York, this 30th day of August, 1878.

[L. s.]

JNO. ORDRONAUX,

State Commissioner in Lunacy.

Upon this certificate the following order was granted by Mr. Justice Gilbert, and made returnable at Special Term :

At a Special Term of the Supreme Court of the State of New York, held in and for the Second Judicial District, at the Court-House, in the County of Kings, on this 31st day of August, 1878.

Present—HON. JASPER W. GILBERT, *Justice.*

IN THE MATTER OF THE KINGS COUNTY }
LUNATIC ASYLUM.

On the annexed certificate of Hon. John Ordronaux, State Commissioner in Lunacy, and on the petition of Henry B. Hewitt, sworn to on the 20th day of, August 1878, and the order of Hon. John Ordronaux made thereon, and the return of the Commissioners of Charities of the County of Kings to said order, let the said the Commissioners of Charities of the County of Kings, show cause before me at a Special Term of this court, or before the justice holding the same, to be holden at the court-house, in the city of Brooklyn, on the 16th day of September, 1878, at twelve o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, why an order should not be made directing the said Commissioners of Charities to obey and perform the order heretofore made herein by Hon. John Ordronaux as aforesaid, and why the said Commissioners should not be punished for their misconduct and contempt in willfully disobeying the said order, or why such other or further order or relief as to the court shall seem just should not be made in the premises; and until the hearing and determining of the said matters, let the said Commissioners of Charities be stayed from removing or interfering with Dr. R. L. Parsons, Medical Superintendent of the Kings County Lunatic Asylum, according to the terms and provisions set forth in said order of Hon. John Ordronaux as aforesaid.

And let service of this order be made on or before the ninth day of September, 1878.

J. W. GILBERT,

J. S. C.

On the 16th of September, being the day assigned for the final hearing on both orders, the State Commissioner submitted the following points in support of his jurisdiction, as founded upon the prerogative powers of the State in the visitation and supervision of all lunatic asylums :

STATE OF NEW YORK.

POWERS OF THE STATE IN THE VISITATION OF LUNATIC ASYLUMS.

Points.

First.—All persons who are at any time in legal custody, are in the custody of the State, which cannot divest itself of its paramount supervision of all its citizens, for the State cannot divest itself of the right of controlling personal liberty by gift to any person or corporation. (*Cooley's Const. Lim.*, 282-84.) Hence, at common law, all prisons were king's prisons, and the State can always enter and inquire into the manner of administration of any institution in which its citizens are held in custody. This is a part of its police powers, and like all prerogative powers is an inalienable one. (*Bonham's Case*, 8th Coke, 375.) And since it can inquire into the *modus operandi* of any such institution, it can also apply any remedies which it deems necessary to protect its citizens therein confined against any actual or impending wrong.

Second.—Lunatics, when judicially declared so, are presumptively in the custody of the State, and their guardians may always be called to account by the State, through its legally constituted tribunals.

Third.—Counties, although political divisions of the State, have no original jurisdiction over lunatics held in custody therein. The power to confine such lunatics in asylums of their own is always a franchise derived from the State mediately or immediately, and like every franchise gives no authority to the grantee to enlarge that power by implication. Formerly in New York the chancellor alone had the custody of all lunatics and their estates. This power was transferred by the Constitution of 1846 to the Supreme Court, and subsequently to county courts and certain city courts. And as the State which creates this franchise may supervise it and apply special laws to its government, so the Legislature can appoint delegates of its own as visitors of all reformatories, penitentiaries, prisons and insane asylums, giving at the same time to such visitors certain powers of control over the administration of such custodial institutions for the purpose of rectifying or preventing abuses of administration, because in so doing it is simply exercising its prerogative authority of protection over its own wards.

Fourth.—All lunatic asylums in the State of New York are judicial hospitals in which no one can be legally confined except in accordance with the laws of the State. They are therefore hospitals licensed either by special act of the Legislature, by the State Board of Charities, or the State Commissioner in Lunacy, to hold lunatics in custody, and constituting a class by themselves; all statutes relating to their administration are statutes in *pari materia*. Every such asylum is now constituted by law a public charity. (*Chap 446, Laws of 1874.*)

Fifth.—By section 13 of chapter 571 of the Laws of 1878, the office of State Commissioner in Lunacy was created. His powers were further defined and enlarged by chapter 446, Laws of 1874; chapter 574, Laws of 1875; chapter 267, Laws of 1876; chapter 47, Laws of 1878.

Sixth.—The powers granted to the Commissioner under section 4, chapter 446, Laws of 1874, as amended by chapter 267, Laws of 1876, are judicial powers; and he is made an adjunct officer to the Supreme Court with all the powers belonging to a referee appointed by the same. These powers are to be exercised by him within the sphere prescribed to his visitatorial jurisdiction, which includes every asylum public or private, and other institutions designed for the care and treatment of the insane in the State of New York. And the discretionary power incidental to the discharge of his duties may, in accordance with leading authorities both here and in England, be exercised by him upon his own opinion of certain facts, that power constituting him the sole and exclusive judge of the existence of such facts. (*Vanderheyden v. Young*, 11th Johns. 150, reaffirmed in *Martin v. Mott*, 12th Wheat. 19; *Allen v. Blunt*, 3rd Story C. C. 742; *Gould v. Hammond*, 1 McAllister, 235.)

Seventh.—At common law, when no visitor is appointed, the visitation devolves upon the king, and as the common law of England became the common law of New York under its first Constitution, so the State, through the Supreme Court and the State Commissioner in Lunacy, may exercise all the powers originally belonging to the crown. In accordance with these principles, it has been held that if a visitor be in his jurisdiction, his acts are not to be inquired into; if out of it, his acts are void. And it was also said that visitors have an absolute power which courts cannot control. (*The King v. The Bishop of Chester*, 1 Wm. Blacks. 22; 2 Kyd on Corp. 282.) Whence it follows that the jurisdiction of the visitor of an eleemosynary corporation is summary and without appeal. (1 Burr. 200; 1 Blacks. Comm. 479; 3 Salk. 380; *Dyer* 209; 3 Mod. 265.) Although the statutes defining the powers of the State Commissioner in Lunacy in New York have modified these principles as to his jurisdiction, they have not abolished them so far as he acts as a referee of the Supreme Court.

Eighth.—By section 1, chapter 357, Laws of 1845, the county of Kings was empowered to retain and care for all its insane in an asylum of its own.

Ninth.—A party acting in contravention to a judicial mandate, even though in ignorance of it cannot thereby establish a new status which can prevent the court from enforcing its original order. The *statu quo* is that which existed at the time of the issuing of the order. It is the party who cannot change the status. The court may, for that is the very object of the proceeding. *Pendente lite nihil innovetur.* (1 Story Eq. Jur., § 406 and cases cited; 6 Barb. 133-38; 2 Johns. Ch. 441.)

On their part the Commissioners of Charities did not press the question of jurisdiction in reply, but confined themselves to putting in affidavits showing the reasons for their removal of Dr. Parsons, and making several distinct charges against him. These charges were never communicated to the State Commissioner, nor made public until the day above men-

tioned, or fully three weeks after the issuing of the order of the State Commissioner. Only one of these charges was deemed worthy of notice by the court, viz.: That of holding lunatics in the asylum over five days without the approval of a court of record. Upon this one alone the Commissioners of Charities were sustained in their removal of Dr. Parsons, and the following judgment was rendered by the court upon the issue of fact and of law raised between them and the State Commissioner in Lunacy:

OPINION.

" GILBERT, J. This is, as it seems to me, a plain case, and it probably would not have been presented to the court, but for a misconception on the part of the Commissioners of Charities, of the relation which they bear to the State Commissioner in Lunacy. No doubt the general management and administration of the asylum, including the selection, appointment and removal of persons employed in carrying on the several departments thereof, has been intrusted to the board composed of said Commissioners. But the exercise of their powers are, in a large degree, subject to the supervision and control of the State Commissioner in Lunacy, and the latter is authorized to require the board to conform in their management of the asylum to such orders and directions as he may, from time to time, give to them for the purpose of remedying evils or defects, which have been proved to him to exist in such management, and which are injurious to the lunatics committed to their care. The statute, from which the State Commissioner in Lunacy derives his powers, is broad and comprehensive. It is his duty to examine into the condition of the insane and idiotic in the State, and the management and conduct of the asylums, public and private, and other institutions for their care and treatment, and the officers and others respectively in charge thereof, are required to give to such Commissioner, at all times, free access to, and full information concerning the insane therein, and their treatment. In all cases where, from the evidence laid before him, there is reason to believe that any person is wrongfully deprived of his liberty, or is maltreated in any asylum, institution, or establishment, public or private for the custody of the insane, or whenever there is inadequate provision made for their skillful medical care, proper supervision and safe-keeping, he is empowered to institute a formal inquiry, of a judicial nature into the matter, and for the purposes of such inquest, he is authorized to issue process to compel the attendance of witnesses, and the production of papers, and to enforce obedience to such process, and while conducting such inquest, he is invested with the same powers as belong to referees appointed by this court. The functions of the Commissioner in Lunacy, in respect to such inquest, are analogous to those of a grand jury; but he is not required to exercise them in all cases. Where testimony can be obtained voluntarily, it may be taken by the Commissioner in that way and the formality of an inquest dispensed with. The holding of an inquest is only for the purpose of obtaining evidence compulsorily. (Laws 1874, chapter 446, title 10 as amended by Laws 1876, chapter 267.) If either of the above-mentioned facts shall be proved to his satisfaction, in either of the modes pointed out, he is further empowered to issue an order in the name of the people of this State, and under his official hand and seal, directed to the superintendent of managers of such institutions, requiring them to modify such treatment or apply such remedy, or both, as shall therein be specified. These extensive and quasi-judicial powers have been conferred upon the Commissioner in Lunacy, for the beneficent purpose of protecting a helpless class of citizens against ill usage, and of securing to them the benefits of the care and treatment, which the State has immemorially provided for them. The question, "who shall guard the guardian?" is a pertinent one at all times, and especially to custodians of the insane. I entertain no doubt of the power of the Legislature to confer such powers, and I think they should be liberally interpreted, in furtherance of the object mentioned. (People ex rel. New York Inebriate Asylum v. Osborn, 57 Barb. 663.) In the case before me a reputable citizen of Brooklyn made a deposition voluntarily before Dr. Ordronaux, the State Commissioner in Lunacy, on the 20th of August last, showing in substance that the Commissioners of Charities, had directed a change to be made in the office of medical superintendent of the insane asylum, by the removal of Dr. Parsons without any cause therefor, and the appointment of Dr. Shaw, who had had no special experience in the treatment of the insane. Dr. Ordronaux therefor issued an order directed to said Commissioners, whereby, after reciting the substance of said deposition, that frequent changes in the chief medical officer in asylums for the insane

are calculated to impair that skillful medical care and supervision, which is derived from long personal acquaintance with the study of the individual phases of insanity, and that such changes in the Kings county asylums had been frequent, he commanded said Commissioners to retain Dr. Parsons, until good and sufficient cause should have been shown to them for his removal. The Commissioners made a return to this order, in which they denied the jurisdiction of the State Commissioner in Lunacy, and also that the removal of Dr. Parsons would have the effect stated in the order, and insisted that the interference of the State Commissioner in Lunacy with their power to make such removal, was an intrusion into the domain of their jurisdiction. I am of opinion, that the Commissioners were in error on all of the points taken in their return—Dr. Ordronaux acquired jurisdiction to make the order by virtue of the deposition referred to—that contained facts which tended to show that the Commissioners had made inadequate provision for the skillful medical care of the insane under their charge.

The evidence was competent, and taken in a proper manner. Of its sufficiency, Dr. Ordronaux was made by the statute the sole judge in the first instance. Having jurisdiction to make the order, it was the duty of the Commissioners of Charities to obey it. If they had disobeyed the order, it would have been the duty of the court to compel a performance thereof in the summary mode pointed out by the statute, unless they showed sufficient cause why said order should not be performed. I am of opinion, however, that no disobedience of the order of Dr. Ordronaux has been shown. The Commissioners were required to retain Dr. Parsons only until good and sufficient cause for his removal should have been shown to them. It appeared, on this hearing, that the removal of Dr. Parsons was, in fact, made for cause, and as I have already intimated, if such cause had been set forth in the return of the Commissioners of Charities to Dr. Ordronaux's order, that would have put an end to this proceeding. While I am glad to say that the reasons assigned for the removal of Dr. Parsons do not affect his qualifications as a physician, or as a specialist in the treatment of the insane, yet they must, for obvious reasons, be deemed by me good and sufficient. It may be added that it was both conceded and proved that Dr. Shaw is in all respects competent for the position of medical superintendent.

The motions arising upon the orders granted by me must, therefore, be denied, and all orders restraining the removal of Dr. Parsons are vacated, without costs.

THE BLOOMINGDALE ASYLUM.

The Commissioner felt it to be his duty last year to call the attention of the Legislature to the very anomalous position occupied by this institution towards the State as its founder. Having been built by funds given by the State in the form of annual subsidies to the Society of the New York Hospital, as trustees for that purpose, there has never been appointed any board of managers by the Legislature to supervise this institution, as in the case of all other State asylums. It has, consequently, been managed as a private charity, mainly, with such rules for the admission of patients as the Governors of the Society of the New York Hospital have seen fit to make. The evident intention of the charity being for the benefit of the indigent insane of New York, and the manner of its administration having been in opposition to these ends, the Commissioner accordingly presented the following report to the Senate on the 4th of April last, and on a hearing of the same before its judiciary committee, it was referred to the Attorney-General for an opinion upon the questions of law arising thereupon, as affecting the rights of the State.

REPORT
OF THE
STATE COMMISSIONER IN LUNACY
TO THE LEGISLATURE
ON THE
RELATIONS OF THE STATE TO THE SOCIETY OF THE
NEW YORK HOSPITAL.

OFFICE OF THE STATE COMMISSIONER IN LUNACY, }
ROSLYN, QUEENS Co., *March 27, 1878.* }

Hon. WM. DORSHEIMER,

President of the Senate:

SIR—I have the honor to present a report to the Legislature on the management of the Bloomingdale Asylum and the claims of the county of New York to the enjoyment of its use—said institution having been erected with moneys granted by the State for the benefit of the citizens of New York, and the managers thereof having failed to carry out the intention of the State, as implied in the annual gifts made to such institution for charitable uses.

I am, very respectfully yours,

JNO. ORDRONAU,

State Commissioner in Lunacy.

REPORT.

The county of New York is now burthened with the support of a much larger number of lunatics than its combined asylum accommodation can either comfortably shelter or properly treat under the medical necessities belonging to cases of acute insanity. The curable stage of that disease is, therefore, seriously compromised by the inadequate means of isolation required at such times. Hospital treatment becomes wholly merged in mere custodial care, with no better results than numerical aggregation.

By thus increasing the manufacture of chronic lunatics, we increase the permanent burthens of taxation for the support of a class which is demonstrably susceptible of reduction, provided proper medical treatment is afforded them at the outbreak of their malady. But the financial embarrassments of this county are such that for some time to come, it is more than probable that it will be unable to cope with the increasing demands made upon it for an increase of hospital accommodations proportioned to the rapid multiplication in the numbers of the insane.

On the 1st of January, 1878, there were supported in the several county asylums of New York—that is to say, on Blackwell's, Ward's, Randall's, and Hart's Islands—1,453 insane women and 980 insane men; an aggregate of 2,435, at a cost, last year, to the county as follows:

N. Y. City Lunatic Asylum (Blackwell's Island).....	\$109,314 53
N. Y. City Asylum for Insane (Ward's Island).....	84,485 59
Insane at Homœopathic Hospital (Ward's Island).....	18,454 40
Branch Insane Asylum (Randall's Island).....	5,874 00
Branch Lunatic Asylum (Hart's Island).....	4,217 38
Total cost for 1877.....	<u>\$222,345 90</u>

The architectural dimensions of these several asylums represent a total capacity of only 1,420 persons—scarcely enough, it will be seen, for the accommodation alone of the female lunatics. The surplus of 1,015 patients of both sexes, over what there are accommodations for, must, therefore—however well distributed—result in a very general overcrowding of nearly all departments. No amount of foresight or care can prevent this result. Given an unknown number of lunatics to be provided for in the course of any one year, but with always the certainty of an increase, and given a house of definite proportions, which cannot be enlarged at will, and overcrowding follows as an inevitable result.

It so happens, also, that the classification of lunatics is not a matter purely of discretion with their keepers. The character of their disease must largely determine this. Hence, where chronic lunatics will bear crowding, acute cases will not. The proportions of space required by either class differ widely.

The Commissioners of Charities and Correction of New York have long struggled with these obstacles in the administration of their lunacy department, and endeavored in every way to ameliorate the condition

of their asylums by transfers of patients to such unoccupied buildings in their department as they could convert into a temporary retreat. Necessarily, such buildings, being constructed for a different purpose, cannot be long occupied without requiring important changes to be made in them. But even they, also, are crowded to their full extent, so that in time they become amenable to the same risks of over-crowding, being at most only a make-shift for the present.

On the other hand, the Board of Estimate and Apportionment of the county, who are fully aware of the embarrassments under which the Commissioners of Charities labor in this respect, do not, in the present condition of the finances of that county, feel authorized to add any such additional burthens upon the tax-payers of New York as would be required, if an appropriation covering the actual needs of the insane of that county were made.

Under these circumstances the Commissioners of Charities, being pressed by the urgent demands of the State Board of Charities that they should provide additional accommodations for their insane wards, have addressed me the following note, accompanied by copies of the correspondence annexed :

DEPARTMENT OF PUBLIC CHARITIES AND CORRECTION, }
March 5, 1878. }

Honorable JOHN ORDONAU, *State Commissioner in Lunacy* :

DEAR SIR—As you are well aware the several lunatic asylums belonging to the county of New York under our care have long been over-crowded, despite every effort made by us to secure additional accommodations for the pauper insane.

Being informed that in the early part of the century the Society of the New York Hospital received annual appropriations from the State for the purpose of providing accommodations for the pauper insane of this county, we accordingly addressed them a note, asking whether they could not aid us in any way in ministering to the wants of this class for whom we now have such inadequate means of providing. Their reply gives us no encouragement for any relief in that quarter, and we accordingly feel it our duty to report these facts to you, believing that you will see in this an endeavor on our part to ameliorate the condition of the insane beyond the degree now permitted by our means.

I beg leave to inclose herewith copies of the communications addressed to them and their reply thereto.

Respectfully yours,
THOMAS S. BRENNAN, *President*.

DEPARTMENT OF PUBLIC CHARITIES AND CORRECTION, }
NEW YORK, January 21, 1878. }

To the Governors of the Society of the New York Hospital :

GENTLEMEN—The over-crowded state of the several lunatic asylums within the department of charities of the county of New York, and the difficulty of obtaining appropriations of sufficient magnitude to secure enlargements commensurate with the rapid increase of the insane, lead us to address your board for the purpose of ascertaining whether you cannot aid us in providing additional accommodations for the pauper insane of the county of New York ?

Understanding that in the early years of the New York Hospital pauper lunatics were received in its wards, we accordingly ask whether some portion of the Bloomingdale Asylum could not be set apart for that class of patients, or some suitable building for their accommodation erected within its grounds by your board ?

An early reply to this communication is solicited.

Very respectfully,
THOMAS S. BRENNAN, *President*.

DEPARTMENT OF PUBLIC CHARITIES AND CORRECTION, }
NEW YORK, February 15, 1878. }

To the Asylum Committee of the New York Hospital :

GENTLEMEN—I am directed by this board to communicate to you that, owing to the crowded condition of the lunatic asylums of this department, we are compelled to

ask an early reply to the communication of January 21, 1878, to the Governors of the Society of the New York Hospital, requesting them to aid in making provision for the pauper insane of this county.

Very respectfully,

JOSHUA PHILLIPS, *Secretary*.

BLOOMINGDALE ASYLUM,

NEW YORK, March 2, 1878. }

TO THOMAS S. BRENNAN, *President Board of Commissioners of Charities and Correction*:

SIR—Your communication of 21st ultimo, addressed to the Board of Governors of the New York Hospital, was referred by that body to the asylum committee, and has, to-day been made the subject of careful consideration by them.

In the earlier days of its history, the Bloomingdale Asylum was able to treat, and did treat, a large number of pauper patients, assisted by an annual grant of \$10,000 by the Legislature of the State.

About the middle of the present century the continually increasing demands upon the asylum by the class of patients for whose benefit it was particularly intended, viz.: those able to pay a small sum towards their support, had become so pressing, and the bounty of the State having been withdrawn, it became necessary to limit, as far as practicable, the admission of patients to those of that class. Up to the present time its wards have been thus filled to their full capacity—a few being always retained as free patients, and many more at a rate far below the outlay incurred in their support.

While the management of the asylum are desirous of contributing to the public good, so far as their resources will allow, they feel that they will best fulfill their mission by pursuing, at least for the present, the policy above indicated.

There are, however, improvements already in progress looking to the accommodation of an increased number of patients. In the light of experience, it seems probable that the demands upon the asylum will keep pace with the contemplated enlargement; but should the result be otherwise, a still further extension of its benefits to the purely indigent will become a subject well worthy of consideration.

Your obedient servant,

D. COLDEN MURRAY, *Secretary*.

I am satisfied that the appeal thus made by them to the Society of the New York Hospital for aid in caring for the pauper insane of New York is founded in an original right which such persons have to enjoy the benefit of that institution. Those rights have so long been denied them at the Bloomingdale Asylum that it seems to have been forgotten that such rights ever existed; and although the exclusion of this class of patients from that institution dates back to the early days of its existence, that fact carries no weight with it, since wrong does not change its character by lapse of time, nor become the foundation of any right by prescription.

It becomes my duty, therefore, to call the attention of the Legislature to the anomalous position long assumed by the Governors of the Society of the New York Hospital, as managers of the Bloomingdale Asylum, towards the insane poor of the county of New York.

That asylum, as will presently be shown, was founded upon funds entrusted by the State, between the years 1816 and 1866, to the Governors of said Society for the construction of said asylum, and which funds, in the aggregate, amount to over the sum of \$440,000.

That jointly with this special fund so dedicated to the erection of this asylum, the State has, since 1797, given to the Society of the New York Hospital, as well for the care of the sick and disabled as for that of the insane, an annual subsidy, which, taken in connection with the Bloomingdale Asylum trust funds, amounts to \$1,279,729.17.

And it further appears that in 1822, the Society of the New York Hospital, under cover of chapter 257, Laws of 1822, entitled "An act to amend the act incorporating the Bank of Newburgh, and for other purposes," passed April 17, 1822, caused its real and personal property to be exempted from all taxation, in the words following :

"§ 4. AND BE IT FURTHER ENACTED, That no real or personal property whatever, belonging to the Society of the New York Hospital shall be subject to be taxed by virtue of any law of this State."*

Of the value of this entire property in the city of New York and elsewhere, it is needless to speak. It is sufficient to say that the portion known as the Bloomingdale Asylum property is now assessed on the tax list of New York city at \$1,539,200, and, if liable to taxation, the amount of tax thereon would have amounted for merely three years past to the following amounts, viz.:

For 1875, rate 2.94.....	\$45,252 00
For 1876, rate 2.80.....	43,097 60
For 1877, rate 2.65.....	40,768 80
	<hr/> \$129,138 88 <hr/>

In view of the grievous burdens of taxation resting upon the county of New York, its citizens have a right to ask of the State that the Bloomingdale Asylum shall give some equivalent to the county for the immunity from taxation thus enjoyed by its property since 1822.

What this immunity has amounted to in the aggregate it is not necessary to compute—a reasonable conjecture will not place it at less than \$500,000, so that with the original amount of State subsidies, aggregating some \$440,000, and these exempted taxes from 1822, amounting to—say, \$500,000, we have a total amount of \$950,000 granted to the Bloomingdale Asylum managers by the State in trust, without any return made by them through that institution to the insane poor of the county of New York.

HISTORY OF THE BLOOMINGDALE ASYLUM.

The Society of the New York Hospital, of which institution Bloomingdale Asylum forms a department, was incorporated by royal charter on the 13th of June, 1771, as the result of a subscription set on foot for the purpose of erecting a public hospital in the city of New York; and the class of citizens to be benefited by it is specifically indicated in that charter, where the Crown, as grantor of the franchise, announces that "we, taking into our royal consideration the beneficial tendency of such an institution within our said city, calculated for relieving the diseases of the indigent and preserving the lives of many useful members of the community, are graciously pleased to grant," etc. It will be noticed that the preamble and initiatory reason for the grant, as above stated,

* By chapter 875 of 1869, section 2, it is recited that "the real estate of the New York Hospital, except buildings which are actually used for hospital purposes, shall be liable to taxation, in the same manner as other property." But by chapter 466 of 1875, section 1, it is enacted that "the portion of the property, real and personal, of the Society of the New York Hospital, a charitable corporation located in the city and county of New York, from which no income is derived, shall be exempt from taxation, so long as the same shall be used exclusively for the purposes for which said society was chartered. Section 4 of chapter 257 of 1822, is hereby repealed." The effect of the repeal of the above clause is to render taxable a portion of unimproved land, lying in Westchester county. The foregoing note was added subsequently to the presentation of the report in April, 1878, for purposes of historical accuracy only. The practical question of the exemption of the Bloomingdale Asylum property from taxation still remains unaffected since the passage of chapter 466 of 1875, which restored in effect the status originally established by section 4 of chapter 257 of 1822.

shows it to have been for the purpose of founding a charitable corporation for public uses, and to the end of benefiting the indigent class. If this was a grant to a private corporation then, for whatever purpose intended, it is to be construed strictly as against the grantees. This is the principle laid down in all the authorities, both English and American. It cannot, therefore, be disputed, nor is this principle nullified by any clause in the charter laying down a contrary rule. If, on the other hand, it was a grant to a public municipal corporation, then being a grant of privilege, it is to be liberally construed in favor of the public, since no public rights can be taken away by inference or construction. (Sedgwick on Const. and Stat. Law, 291, and cases cited.)

The following is the charter of this society :

THE CHARTER.

[The passages printed in *italics* have been repealed or altered by subsequent Acts of the Legislature.]

GEORGE THE THIRD, BY THE GRACE OF GOD, OF GREAT BRITAIN, FRANCE AND IRELAND, KING, DEFENDER OF THE FAITH AND SO FORTH.

To all to whom these presents shall come, greeting :

Whereas our loving subjects, Peter Middleton, John Jones and Samuel Bard, of our city of New York, physicians, by their humble petition presented unto our trusty and well beloved Cadwallader Colden, Esq., our Lieutenant-Governor, and then our commander-in-chief of our province of New York, and the territories depending thereon in America, and read in our council for our said province on the ninth day of March, which was in the year of our Lord one thousand seven hundred and seventy, did, among other things, in substance, set forth, that there had been a subscription set on foot by them, for the purpose of erecting a public Hospital in our said city of New York, and that sundry public-spirited persons, influenced by principles of benevolence had liberally subscribed towards the same ; that from the manifest utility of such an infirmary the petitioners hoped for further contributions, and that some very considerable donations had been then already promised, in case the success of the Institution should be rendered probable ; but that the said moneys could not be conveniently collected, or the design prosecuted with vigor, unless a corporation should be formed for that purpose ; and, therefore, the petitioners humbly prayed our Letters Patent, forming a corporation for the purposes aforesaid : NOW WE TAKING INTO OUR ROYAL CONSIDERATION THE BENEFICIAL TENDENCY OF SUCH AN INSTITUTION WITHIN OUR SAID CITY, CALCULATED FOR RELIEVING THE DISEASES OF THE INDIGENT, and preserving the lives of many useful members of the community, are graciously pleased to grant the said humble request of our said loving subjects ; know ye, therefore, that we, of our special grace, certain knowledge, and mere motion, have willed, given, granted, ordained, constituted, and appointed, and by these presents for us, our heirs and successors, do will, give, grant, ordain, constitute and appoint, that the Mayor, Recorder, Aldermen, and Assistants of our city of New York, in America, now and for the time being ; the Rector of Trinity Church in our said city, now and for the time being ; the President of King's College in our said city, now and for the time being ; the Senior Minister of the Reformed Protestant Dutch Church in our said city, now and for the time being ; the Minister of the Ancient Lutheran Church in our said city, now and for the time being ; the Minister of the French Church in our said city, now and for the time being ; the Senior Minister of the Presbyterian Church in our said city, now and for the time being ; the Minister of the Moravian Church in our said city, now and for the time being ; the Minister of the German Reformed Calvinist Church in our said city, now and for the time being ; the Minister of the New Lutheran Church in our said city, now and for the time being ; the Minister of the Anabaptist Congregation in our said city, now and for the time being ; the Minister of the Scotch Presbyterian Church in our said city, now and for the time being ; and Sir William Johnson, Baronet ; John Fothergill, of our city of London, in our kingdom of Great Britain, physician ; Daniel Horsmandel, John Watts, Oliver DeLancey, Charles Ward Apthorpe, Roger Morris, Wm. Smith, Hugh Wallace, Henry White, Robert R. Livingston, Andrew Elliot, Archibald Kennedy, Abm. Mortier, Philip Livingston, Wm. Axtel, Jas. Duane, John Morin

Scott, Leonard Lispenard, Simon Johnson, Thos. Smith, Wm. Bayard, Walter Rutherford, Alex. Colden, John Van Cortland, Augustus Van Cortland, William Livingston, Abraham Mesier, Richard Morris, John Bogert and John Moore, all of our said city of New York, esquires; Abraham Lot, esquire, treasurer of our said province; Peter Van Brugh Livingston, David Clarkson, Walter Franklin, Gerard William Beekman, William M'Adam, George Bowne, Nathaniel Marston, Lawrence Kortright, George Folliott, David Provost, Cornelius Clopper, John Myer, David Van Horne, Thomas White, Charles M'Evers, Isaac Low, John Beekman, Richard Sharp, Thomas Pearsall, Joshua Delaplaine, Samuel Bowne, Isaac Scars, Samuel Broome, John Thurman, Jacob Watson, Lewis Pintard, Gerardus Duychink, James Beekman, Peter Goelet, William Ludlow, Nichols Stuyvesant, John Harris Crugar, John Weatherhead, Theophilact Bache, Samuel Verplanck, John Crook, Grove Bend, John Alsop, Caspar Wistar, Isaac Rosevelt, Evert Banker, Gerardus De Peyster, Henry Rutgers the younger, Henry Haydock, Gabriel H. Ludlow, Isaac Corsa, Thomas Buchanan, Andrew Barclay, John Livingston, Augustus Van Horne, Joseph Hallett, Peter Kettletas, Jacob Le Roy and Abraham Duryee, all of our said city of New York, merchants; William Brownejohn, of our said city of New York, druggist; John Leake, of our said city of New York, mariner; George Harrison, of our said city of New York, brewer; Walter Du Bois and Nicholas Jones, both of our said city of New York, gentlemen; and Francis Bassett, of our said city of New York, pewterer; and such other persons as shall be elected and admitted hereafter members of the corporation hereby erected, be and for ever hereafter shall be, by virtue, of these presents, one body corporate and politic, in deed, fact and name, by the name, style, and title of "*The Society of the Hospital in the City of New York in America*," and them and their successors, and by the same name, we do by these presents, really and fully make, erect, create, constitute, and declare one body politic and corporate, in deed, fact and name, forever; and will give, grant, and ordain, that they and their successors, the Society of the Hospital in the city of New York in America, by the same name, shall and may have perpetual succession; and shall and may, by the same name, be persons capable in the law to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended, in all courts, and elsewhere, in all manner of actions, suits, complaints, pleas, causes, matters and demands whatsoever, as fully and amply as any other our liege subjects of our said province of New York, may or can sue or be sued, implead or be impleaded, defend or be defended by any lawful ways or means whatsoever. And that they and their successors, by the same name, shall forever hereafter be persons capable and able in the law to purchase, take, hold, receive, and enjoy to them and their successors, any messuages, tenements, houses, and real estate whatsoever, and all other hereditaments of whatsoever nature, kind, and quality they be, in fee simple, for term of life or lives, or in any other manner whatsoever. And also, any goods, chattels, and personal estate whatsoever. Provided always, the clear yearly value of the said real estate doth not at any time exceed the sum of five thousand pounds sterling, lawful money of our kingdom of Great Britain, above all outgoings and reprises. And that they and their successors, by the same name, shall have full power and authority to give, grant, sell, lease, demise, and dispose of the same real estate and hereditaments whatsoever, for life or lives, or years or forever. And also, all goods, chattels, and personal estate whatsoever, at their will and pleasure, as they shall judge to be most beneficial and advantageous to the good and charitable ends and purposes above mentioned; and that it shall and may be lawful for them and their successors forever, hereafter, to have a common seal to serve for the causes and business of them and their successors, and the same seal to change, alter, break, and make new, from time to time, at their will and pleasure.

And our royal will and pleasure is, that when our said corporation, hereby created, shall have acquired, by the aid of the Legislature of our said province of New York, by the generous donations of the benevolent or otherwise, a proper and convenient piece of ground in and near our said city of New York, and funds sufficient, without injuring the said charity, to admit of the erecting an Hospital for the reception and relief of sick and diseased persons, that the said society do erect within our said city of New York, an Hospital for the said purposes; which we will, shall for ever hereafter be called by the name of "*The New York Hospital*." And that it shall and may be lawful for our said corporation, from time to time, and at all times hereafter, to erect for their use and convenience, any other house, houses, or buildings whatever.

And for the better carrying into execution the purposes aforesaid, our royal will and pleasure is, and we do hereby for us, our heirs and successors, give and grant to the Society of the Hospital in the city of New York, in America, and their succes-

sors for ever, that there shall be for ever hereafter, belonging to our said corporation, twenty-six Governors of the said Hospital, and corporation, of whom there shall be taken and had one President, and one Vice-President, and who shall conduct and manage the affairs and business of the said Hospital and corporation in manner as hereafter is declared and appointed. And also that there shall be for ever hereafter, one or more Treasurer or Treasurers, and one Secretary belonging to our said corporation. And for the more immediate carrying into execution our royal will and pleasure herein, we do hereby assign, constitute, and appoint the aforesaid John Watts, Oliver DeLaney, Charles Ward Apthorp, Roger Morris, William Smith, Hugh Wallace, Henry White, Robert R. Livingston, Whitehead Hicks, Mayor of our said city of New York, Andrew Elliott, Archibald Kennedy, Peter Van Brugh Livingston, David Clarkson; Abraham Motier, Abraham Lott, Walter Franklin, Leonard Lispernard, Gerardus William Beekman, Philip Livingston, William M'Adam, George Bowne, William Axtell, Dr. John Fothergill, Nathaniel Marston, Lawrence Kortright, and George Folliott, to be the present Governors of the said Hospital and corporation; the aforesaid John Watts, to be the present President; and the aforesaid Andrew Elliott to be the present Vice-President; the aforesaid Peter Van Brugh Livingston, to be the present Treasurer; and the aforesaid John Moore, to be the present Secretary of our corporation hereby erected. Which said Governors, President, Vice-President, Treasurer, and Secretary, shall hold, possess and enjoy their said respective offices until the third Tuesday in May, now next ensuing. And for the keeping up the succession in the said offices, our royal will and pleasure is, and we do hereby for us, our heirs and successors, establish, direct, and require of and give and grant to the said Society of the Hospital in the city of New York in America, and their successors for ever, that on the said third Tuesday in May, now next ensuing, and yearly, and every year, for ever thereafter on the third Tuesday in May in every year, they and their successors shall meet at the said Hospital, or at some other convenient place in our said city of New York, to be fixed and ascertained by some of the By-Laws or regulations of our said corporation, and there, by the majority of such of them as shall so meet, shall by ballot, or in such other manner and form as shall be directed and established by any [of] the By-Laws or regulations of our said corporation, elect and choose twenty-six of their members, to be Governors of our said corporation and Hospital for the ensuing year: *and also out of the said Governors so elected and chosen, shall elect and choose as aforesaid, one President and one Vice-President, of our said incorporation, for the ensuing year. And also, shall then and there elect and choose, as aforesaid, one or more of the said Governors or members at large, of our said corporation, to be Treasurer or Treasurers of our said corporation for the ensuing year, and another of the said members to be Secretary for the ensuing year.* Which said Governors, and other the officers aforesaid, of our said corporation, so elected, shall immediately enter upon their respective offices, and hold, exercise, and enjoy the same respectively, from the time of such election for and during the space of one year, and until other fit persons shall be elected and chosen in their respective places, according to the laws and regulations aforesaid.

And in case any of the said persons by these presents nominated and appointed to the respective offices aforesaid, or who shall hereafter be elected and chosen thereto, respectively, shall die, or on any account be removed from such offices respectively, before the time of their respective appointed services shall be expired, or refuse or neglect to act in and execute the office for which he or they shall be so elected and chosen, or is or are herein nominated and appointed; then our royal will and pleasure is, and we do hereby direct, ordain, and require our said corporation, to meet at the place for the time being appointed, for the said annual elections, and choose other or others of the members of our said corporation, in the place and stead of him or them so dying, removed, refusing or neglecting to act, within thirty days next after such contingency; and in this case, for the more due and orderly conducting such elections, and to prevent any undue proceedings therein, we do hereby give full power and authority to, and ordain and require, that upon every vacancy in the office of President, the Vice-President, and any five of the Governors of our said corporation and Hospital, for the time being; and upon every vacancy in the office of Vice-President, Governor, and in any other of the offices aforesaid, the President, and any five of the said Governors for the time being, shall appoint the time for such election and elections, and cause public notice thereof to be given by publishing the same in one or more of the public newspapers printed in this colony, at least seven days before the day appointed for such election; or in case it shall so happen that at any time or times hereafter, there be no such newspapers printed in this colony, then by affixing up notices in writing, at the least seven days before the day appointed for such election, at two or more of the most

public places in our said city of New York; hereby giving and granting that such person and persons as shall be so chosen from time to time by the majority of such of the members of our said corporation as shall in such case meet in manner hereby directed, by ballot, or in such other manner and form as shall be directed by any of the by laws or regulations of our said corporation, shall have, hold, exercise, and enjoy such the office or offices to which he or they shall be so elected and chosen from the time of such election until the third Tuesday in May thence next ensuing, and until other or others be legally chosen in his or their place or stead, as fully and amply as the person or persons in whose place he or they shall be chosen, could or might have done by virtue of these presents. And we do hereby will and direct, that this method shall for ever hereafter be used for filling up all vacancies in the said offices, between the annual elections above directed: provided, nevertheless, that as well in the elections last mentioned, as in the annual elections above mentioned, no person shall be elected to the office of President or Vice-President, unless he then be a Governor of our said corporation and Hospital.

And our will and pleasure is, and we do hereby for us, our heirs and successors, direct, ordain, and require, that every President, Vice-President, Governor, Treasurer, and Secretary of our said corporation, to be elected by virtue of these presents, shall, before they act in their respective offices, take an oath, or (if any of them shall be of the people called Quakers, or Unitas Fratrum) an affirmation to be to them administered by the President or Vice-President of our said corporation for the time being, or of the preceding year, (who are hereby severally authorized to administer the same,) for the faithful and due execution of their respective offices, during their continuance in the same respectively. And further, our royal will and pleasure is, and we do hereby for us, our heirs and successors, ordain and appoint, and give and grant to the Society of the Hospital, in the city of New York, in America, that the President of the said corporation for the time being, and in case of a vacancy in the said office of President, or in case of his sickness or absence, the Vice-President of our said corporation shall, and may from time to time, as occasion may require, summon and call together, at such days and places within our said city of New York as they shall respectively think proper, the Governors of the said corporation and Hospital for the time being, giving them at the least one day's notice thereof; and we do hereby require them to meet accordingly, and give, grant, and ordain, that any seven or more of the said Governors of our said corporation, being, so convened together, of whom the President of our said corporation for the time being, or in case of a vacancy in the said office, or the sickness or absence of the said President, the Vice-President for the time being, shall always be one, shall forever hereafter be a legal meeting of the said corporation; and they, or the major part of them so met, shall have full power and authority to adjourn from day to day, or for any other time, as the business of our said corporation may require; and to do, execute, transact, manage, and perform, in the name of our said corporation, all and every act and acts, thing and things whatsoever, which our said corporation are or shall, by virtue of these our Letters Patent, be authorized to do, act, transact, manage, and perform, in as full and ample manner as if all and every the Governors and members of the said corporation were present, and consenting thereto: *saving and except always the electing of Governors, and other the offices above mentioned of our said corporation*: and also, saving and except the giving, granting, selling, or otherwise aliening any of the estate, real or personal, of our said corporation: and the leasing, demising, or disposing of any of the Lands, Tenements, Hereditaments, real or mixed estate of our said corporation, for any longer term or time than one year; our royal will and pleasure being that none of the estate, real, personal, or mixed, of our said corporation, be sold, or in any wise aliened, but by and with the concurrence and approbation of the majority of the whole number or the Governors of our said corporation for the time being, first obtained at some legal meeting of our said corporation; and, that none of the real or mixed estate of our said corporation be leased, demised, or any wise disposed of for any longer term than one year, without the like concurrence and approbation of the majority of the whole number of the Governors of our said corporation for the time being, first obtained as aforesaid.

And further, we do hereby for us, our heirs and successors, ordain and appoint, and give and grant to the Society of the Hospital in the city of New York, in America, that any and every such legal meeting of any seven or more of the Governors of our said corporation, of whom the President of our said corporation, for the time being, or in case of a vacancy in the said office or the sickness or absence of the said President, the Vice-President, for the time being, shall always be one, it shall and may be lawful for them, in writing under the common seal of our said corporation, to make, frame, constitute, establish, and ordain, from time to time,

and at all times hereafter, such laws, constitutions, ordinances, regulations, and statutes, for the better government of the officers, members, and servants of the said corporation, and of the patients from time to time admitted into the said Hospital; for fixing and ascertaining the places of meeting of our said corporation, on the days and times of the elections above mentioned; and for regulating the mode and manner of making such and all other the elections in our said corporation; the management and disposition of the funds and charities, and all other the business and affairs whatever of our said corporation, as they, or the major part of them, so legally met, shall judge best for the general good of the said corporation, and profitable for the more effectual promoting the charitable and beneficial designs of the said corporation: and the same, or any of them, to alter, amend, or repeal, from time to time, as they, or a major part of them, so met as aforesaid, shall judge most conducive to the benefit of the said charity; provided such laws, constitutions, regulations, ordinances, and statutes, be not repugnant to the laws of that part of our kingdom of Great Britain called England, nor of this our province of New York.

And we do further will and grant, that the said Governors of the said corporation for the time being, or any seven or more of them so legally met and convened as aforesaid, of whom the President, or Vice-President for the time being, shall always be one, as aforesaid, shall have the full and sole power and authority for ever hereafter, by the majority of their voices from time to time, to elect, nominate, and appoint such and so many physicians and surgeons as they shall judge necessary to attend the said Hospital, and the sick and deceased patients from time to time admitted to the benefits of the said charity; and to appoint the physicians and surgeons so elected, their respective powers, authorities, business, trusts, and attendances; and also to appoint an apothecary, a steward, and matron, of and for the said Hospital; and from time to time to appoint them, the said apothecary, steward, and matron, an each of them, their respective powers, authorities, business, trusts, and attendances; and to displace and discharge the apothecary, steward, and matron from the service of the said hospital, and to nominate and appoint other or others in their places and stead.

And we do further, of our especial grace, certain knowledge, and mere motion, for us, our heirs and successors, grant and ordain, that when, and as often as any President, Vice-President, Governor, Treasurer, Secretary, Physician, or Surgeon of the said corporation, shall become unfit or incapable to execute their said offices respectively, or shall misdemean themselves in their said offices, respectively, contrary to any of the by-laws or regulations of our said corporation, or refuse or neglect the execution thereof, and thereupon a complaint or charge in writing shall be exhibited against him or them, by any member of our said corporation, at any legal meeting of the Governors of our said corporation and Hospital, as aforesaid, that it shall and may be lawful for the President or Vice-President and Governors, or the major part of them, then met, or at any other legal meeting of our said corporation from time to time and upon examination and due proof, to suspend or discharge such President, Vice-President, Governor, Treasurer, Secretary, Physician or Surgeon, from their offices respectively, although the yearly or other time for their respective services shall not be expired; any thing before in these presents contained to the contrary thereof in any wise notwithstanding; provided always, that no President, Vice-President, Governor, Physician, or Surgeon, shall be suspended or discharged at any meeting, without the concurrence and approbation of the majority of the whole number of the Governors of the said corporation, nor without having a copy of the complaint or charge against him, at least six days before such examination; and an opportunity to be fully heard in his defence.

And for the keeping up and preserving, for ever hereafter, a succession of members of the said corporation, our will and pleasure is, and we do hereby for us, our heirs and successors, ordain, give and grant, to "The Society of the Hospital in the City of New York, in America," and their successors for ever, that it shall and may be lawful at all time and times hereafter, for ever, for any seven or more of the Governors of our said corporation, for the time being, of whom we will, the President, or, in case of his absence, sickness, or a vacancy in the said office of President, the Vice-President of the said corporation, shall always be one, being convened and met together, as aforesaid, so as to be a legal meeting of our said corporation as above mentioned, to elect and choose by the majority of their voices, and in such manner and form, and upon such terms and conditions as shall be directed, ordained, and established for that purpose by any of the said by-laws, statutes, constitutions, or ordinances of the said corporation, and admit under the common seal of our said corporation, such and so many persons to be members of the said corporation, as they shall think beneficial to the laudable designs of the said corporation. Which persons,

and every of them, so from time to time elected, chosen, and admitted, shall by virtue thereof, and of these presents, be vested with all the powers, authorities, and privileges, which any member of the said corporation is hereby invested with.

And our will and pleasure further is, that the said Governors of the said corporation and Hospital, shall yearly and every year, give an account in writing of the several sums of money by them received and expended, by virtue of these presents, or any authority hereby given; and of the management, application, and disposition of the revenues and charities aforesaid to the General Assembly of our said province, for the time being, or to such person or persons as the said General Assembly shall, from time to time, appoint to receive and audit the same accounts, when they, the Governors of our said Hospital, shall be thereunto required by the said General Assembly of our said province.

And further, we do by these presents, for us, our heirs and successors, give and grant unto the said Society of the Hospital, in the city of New York in America, and their successors for ever, that this our present Charter shall be deemed, adjudged, and construed in all cases, most favorably, and for the best benefit and advantage of our said corporation, and for the promoting the good end and designs of this charitable Institution; and that this our present grant, being entered on record, as is hereinafter expressed, shall be for ever hereafter good and effectual in the law, according to our royal intent and meaning herein before declared; and without any other license, grant, or confirmation from us, our heirs or successors, hereafter by the said corporation to be had or obtained, notwithstanding any mis-recitals, non-recitals, not-naming, or mis-naming, or any of the aforesaid offices, franchises, privileges, immunities, or other the premises, or any of them; and although no writ of *ad quod damnum* or other writs, inquisitions, or precepts, hath been upon this occasion had, made, issued or prosecuted; any statute, act, ordinance, or provision, or other matter or thing to the contrary thereof in any wise notwithstanding.

In testimony whereof, we have caused these our Letters to be made Patent, and the great seal of our said province to be hereunto affixed, and the same to be entered of record in our Secretary's office for our said province of New York, in one of the Books of Patents there remaining.

Witness our right trusty and right well beloved cousin John, Earl of Dunmore, our Captain-General and Governor-in-chief, in and over our said province of New York, the territories depending thereon in America, Chancellor and Vice-Admiral of the same, at our fort in our city of New York, by and with the advice and consent of our council for our said province of New York, the thirteenth day of June, in the year of our Lord one thousand seven hundred and seventy-one, and of our reign the eleventh.

In 1806 [by chap. 54, Laws of 1806] the Society obtained from the Legislature the following act, granting them an annual subsidy at \$12,500, to be continued until 1857.

The following is the act:

CHAP. 54 OF 1806.

AN ACT FOR THE BETTER AND MORE PERMANENT SUPPORT OF THE HOSPITAL IN THE CITY OF NEW YORK.

PASSED March, 1806.

WHEREAS, It has become necessary, on account of the increasing number of patients in the hospital in the city of New York, to enlarge the same, by erecting additions thereto, for the more convenient accommodation of the sick and disabled, and particularly, to provide suitable apartments for the maniacs, adapted to the various forms and degrees of insanity; and,

WHEREAS, The said hospital is an institution of great public utility and humanity, as well as the general interests of the State require that fit and adequate provision should be made for the support of such an infirmary for sick and insane persons;

Therefore, The better to enable the governors of the said hospital, by means of a permanent fund to maintain and improve the said hospital:

I. BE IT ENACTED BY THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, That the Treasurer of this State shall every year hereafter, until the year 1857, upon the warrant of the Comptroller, pay to the treasurer of the society of the hospital in the city of New York, in America, for the use of the said corporation, in quarter-yearly payments, out of any moneys in the treasury of this

State, not otherwise appropriated, the annual sum of \$12,500; the first quarterly payment to be made on the first day of May next; which said annual sum of \$12,500 shall become chargeable upon the duties on sales at public auction or vendue in the said city of New York.

II. AND BE IT FURTHER ENACTED, That the act entitled "An act to continue the provision for the public hospital, in the city of New York," passed March 2, 1805, be and the same is hereby repealed.

III. AND BE IT FURTHER ENACTED, That the governors of the said hospital shall make an annual report of the state of that institution to the Legislature.

In 1810 the Society obtained from the Legislature an act amending and reaffirming their charter, on the ground that they believed themselves to have violated some of its provisions. They thus acknowledged the authority of the State both to amend their charter and to revive the same in case its forfeiture might have occurred through any irregularity in obeying its terms. Suppose the State had withheld its consent, would the charter have survived? The action taken by it was in the nature of a new foundation.

The following is the act:

CHAP. 44 OF 1810.

AN ACT TO ALTER THE STYLE AND TITLE OF THE SOCIETY OF THE HOSPITAL IN THE CITY OF NEW YORK, IN AMERICA, AND TO AMEND THE CHARTER THEREOF.

PASSED March 9, 1810.

WHEREAS, "The society of the hospital in the city of New York, in America," by their petition, under their common seal, have represented to the Legislature that doubt had arisen whether the election of members under a by-law of the said corporation, existing for many years past, had been made in strict conformity with the charter of the said society, and that their franchises under the said charter might thereby be rendered insecure, and have prayed that their said franchises may be confirmed to them, and secured from the consequence of any future mistake, or any future inaccuracy or misconstruction; and also that the Legislature would be pleased to change the name and style of the said corporation, and to amend their charter in the manner hereinafter mentioned; therefore,

I. BE IT ENACTED BY THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, That the said corporation shall forever hereafter be known and distinguished by the name and style of "The Society of the New York Hospital;" and by that name shall continue and be a body corporate and politic, and sue and be sued, plead and be impleaded, answer and be answered unto, without any seizure or forejudger of their franchises, liberties or privileges, or being thereof excluded or ousted, for or upon any pretense of any forfeiture or misdemeanor at any time heretofore done, committed or suffered; and the said corporation shall and may have and enjoy all their rights, grants, franchises, lands, tenements, hereditaments and estates whatsoever, in like manner as if no misuser or other cause of forfeiture had heretofore occurred; and all the acts of said corporation shall be, and hereby are confirmed and declared to be as valid to all intents and purposes as if no misuser or other cause of forfeiture had happened or been committed.

II. AND BE IT FURTHER ENACTED, That hereafter the president, vice-president treasurer and secretary of the said corporation shall be elected by the governors of the same, and not, as heretofore, by the members of the said corporation at large.

In this same year a further subsidy was granted this society by the following act:

CHAP. 88 OF 1810.

AN ACT FOR THE FURTHER SUPPORT OF THE NEW YORK HOSPITAL.

PASSED March 23, 1810.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, That there shall be paid to the treasurer of the New York Hospital, for the time being, out of the moneys arising from the duties on goods sold in

the city of New York, \$3,500 per annum, for the space of ten years from the passing of this act, to be paid quarter-yearly, in four equal payments, and the first quarter to be paid on the first day of August next, and quarterly thereafter, for and during the above term of ten years;

Provided, always, That at any time within the period aforesaid the Legislature may repeal this act.

NOTE.—The above act was repealed by the fifth section of the act entitled “An act respecting navigable communications between the great western and northern lakes and the Atlantic ocean,” passed April 15, 1817.

In 1816, the Society, finding its accommodations for lunatics wholly inadequate, and desiring that a new separate building and department should be erected for their accommodation, but being without any sufficient means for doing so out of their hospital funds proper, besought the Legislature for further subsidies, to the end that they might the better provide for that class of persons.

The following act was thereupon passed :

CHAP. 203 OF 1816.

AN ACT TO ENABLE THE SOCIETY OF THE NEW YORK HOSPITAL, TO ERECT A NEW BUILDING FOR THE ACCOMMODATION OF INSANE PATIENTS.

PASSED April 17, 1816.

WHEREAS, the Governors of the New York Hospital have represented to the Legislature, that the building heretofore erected for the accommodation of the insane patients, has, by reason of their increased number, become wholly inadequate for the purpose for which it is intended, that they are desirous of erecting another building for the said purpose, and have purchased a very eligible site for the same, but that the funds of the institution being merely sufficient for its ordinary expenses, they are unable, without aid of the Legislature, to carry their intention into effect;

And, whereas, there is no other institution in the State in which such patients can be taken care of and relieved; And, whereas, humanity and the interest of the State, require that fit provision should be made for the care and cure of insane persons; therefore,

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, That during the period mentioned in the first section of the act entitled “An act for the better and more permanent support of the hospital in the city of New York,” the treasurer of this State shall pay to the treasurer of the Society of the New York Hospital, in quarter yearly payments, out of any moneys in the treasury of this State not otherwise appropriated, the annual sum of ten thousand dollars, the first quarter yearly payment to be made on the first day of May next, which said annual sum shall be chargeable upon the duties on sales at public auction or vendue in the said city of New York: *Provided always,* that all payments heretofore directed by law, to be made out of the aforesaid duties for the support of charitable institutions in the city of New York, shall be made previous to the payment of the sum hereby granted to the said Society of the New York Hospital.

[SENATE DOC. NO. 17.]

Under the foregoing acts of 1806 and 1816, and still earlier acts, beginning with the year 1797, it appears that the following sums have been paid by the State Treasurer into the treasury of the New York Hospital, viz.:

1797.....	\$8,750 00	1829.....	\$22,500 00
1798.....	12,500 00	1830.....	22,500 00
1799.....	12,500 00	1831.....	22,500 00
1800.....	12,500 00	1832.....	22,500 00
1801.....	12,500 00	1833.....	22,500 00
1802.....	12,500 00	1834.....	22,500 00
1803.....	12,500 00	1835.....	22,500 00
1804.....	12,500 00	1836.....	22,500 00
1805.....	12,000 00	1837.....	22,500 00
1806.....	12,500 00	1838.....	22,500 00
1807.....	12,500 00	1839.....	22,500 00
1808.....	12,500 00	1840.....	22,500 00
1809.....	12,500 00	1841.....	22,500 00
1810.....	14,250 00	1842.....	22,500 00
1811.....	16,000 00	1843.....	22,500 00
1812.....	16,000 00	1844.....	22,500 00
1813.....	16,000 00	1845.....	22,500 00
1814.....	16,000 00	1846.....	22,500 00
1815.....	16,000 00	1847.....	22,500 00
1816.....	23,500 00	1848.....	22,500 00
1817.....	24,104 17	1849.....	22,500 00
1818.....	22,500 00	1850.....	22,500 00
1819.....	22,500 00	1851.....	22,500 00
1820.....	22,500 00	1852.....	22,500 00
1821.....	22,500 00	1853.....	22,500 00
1822.....	22,500 00	1854.....	22,500 00
1823.....	22,500 00	1855.....	22,500 00
1824.....	22,500 00	1856.....	16,875 00
1825.....	22,500 00	1857.....	22,500 00
1826.....	22,500 00	1858.....	23,000 00
1827.....	22,500 00	1859.....	26,250 00
1828.....	22,500 00	1860.....	8,500 00
		1866.....	27,000 00
			<u>\$1,279,729 17</u>

Of this large sum the portion annually appropriated for Bloomingdale Asylum alone (by chap. 203 of the Laws of 1816) amounts, in the forty-three years thus covered, to \$440,000.

The questions which will naturally suggest themselves to every mind in reviewing the long array of State subsidies thus made to this Society, and culminating in an exemption of all its property from taxation—the questions, we repeat, which will naturally arise, will be, whether such subsidies, being derived from the people's money, can justly be assumed to have been given absolutely to this Society, and without any equivalent benefit or advantage being expected or implied as a return to the people for this grant.

The grant was made to a society incorporated for charitable purposes in the city and county of New York, and as it is the extensiveness of a charity which makes it a public charity, so every gift to charitable uses is by implication a gift for the benefit of all classes comprised within the limits of such particular public charity. Now, all the moneys given by the State, under the act of 1816, to the Society of the New York Hospital, were given for the specific purpose of building a public asylum for the insane poor. That was the immediate purpose and intent of the

gift, and a committee of the Assembly, appointed in 1831 to investigate the affairs of this Society, while speaking of the Bloomingdale Asylum, say that "The buildings were erected and the site of land purchased upon the faith of the annuity from the State, and the then governors of the hospital were appointed by the State—the almoners of its bounty." (Assembly Doc. 263, March, 1831.) There was no authority, either direct or implied, given to these governors to merge these funds in the general funds of the hospital. The governors were, *quoad* this asylum, the trustees and almoners of the State bounty, and the act of 1816 designated the specific direction in which they were to be expended. During the period covered by these subsidies the State erected the State Lunatic Asylum at Utica, at a cost far below this. Subsequently it built the Willard, the Hudson River and the Homœopathic Asylums—the latter of which was largely contributed to by private donations, in the same manner as the New York Hospital originally was.

But in each and every case where the funds of the State were given, its proprietary right in those funds, whether converted into buildings, real estate, or personal property, has never been questioned. The doctrine is as old as the common law, that if the king and a common person give possessions to a corporation at the same time, the king, by his prerogative, shall be founder. (1 Kyd on Corp., 51; 9 Coke, 129, b.; 2 Inst., 68.) Substitute the word State for king, and the same doctrine obtains in the United States. The subsidies given by the State for the erection of the Bloomingdale Asylum were derived from the people's treasury. They were public funds raised for public uses, and were never understood to be given to the managers of these asylums except in trust, and as a public charity to be administered to public uses in the manner provided by law.

The Governors of the Bloomingdale Asylum are the only managers of a lunatic asylum in this State who have ever treated trust funds received by them from the State to public charitable uses as a private gift to a private corporation with an exclusive discretion as to their use. If the rule thus adopted by this corporation were a valid one in the law of public trusts, then the managers of the State Homœopathic Asylum, whose institution received \$100,000 from private benefactors, would also be, *ipse facto*, a private corporation over which the State could exercise neither supervision nor control.

Now, the State has no representation in the Board of Governors of the New York Hospital, nor any voice in the administration of its affairs. Its only privilege has been that of appropriating over a million of dollars of the public funds to this Society, for the purpose of enabling it to erect hospital buildings at its pleasure, to exempt its property from taxation, while the institution has been governed in such way as—in its insane department at least—not to benefit the indigent class for whom, primarily, the benefactions of the State were intended.

If we now inquire to what use the funds dedicated to the construction of the Bloomingdale Asylum have been put, we shall find that they have gone to erect not a public charitable asylum, for the benefit of the city and county of New York, as the original charter contemplated that the New York Hospital in all its departments should be, and as the subsidies of the Legislature further confirmed the idea of, but, instead, that the funds so publicly dedicated to charity in the county of New York, have been simply regarded by the Governors of the Hospital as a private gift to them and their successors in perpetuity. Consequently, and

acting under this erroneous impression, they early adopted the following by-law as a declaration of the private form of charity under which they intended administering the Bloomingdale Asylum, viz. :

"No other than pay patients shall be received into the asylum except by the express direction of the Board of Governors. Paupers from any part of the State may be admitted at the lowest rate for which they can be supported, on order of the overseers of the poor whence they are sent, which order shall be held as security for the maintenance of such paupers."

No date is affixed to this by-law, nor have I been able to ascertain from the secretary of the board when it was adopted. There is evidence, however, that it is of ancient date, since Gov. Throop, in his annual message to the Legislature in 1830, called attention to the absence of all hospital provision for the pauper insane, and the committee of the Assembly appointed to inquire into the same reported in March, 1831, that the Bloomingdale Asylum was only for pay patients, and there was no provision made for pauper lunatics there. At the same time they reported that the income arising from the sums paid for board of the patients and from sales of the produce from the farm was nearly, if not quite, equal to the general expenses of the establishment.

But whatever latitude of construction may be put upon the above by-law, the letter of the secretary, Mr. Murray, to the Commissioners of Charities and Correction of New York, dated March 2, 1878, and heretofore cited, leaves no room for doubting how the Bloomingdale Asylum committee interpret their duty to the insane poor of the county of New York. Mr. Murray, however, cites no authority in support of his assertion that "This asylum was particularly intended for those able to pay a small sum towards their support." A by-law of the governors may have established such a rule, but there is no authority in the charter to exclude any class of poor persons, the words of the grant being in general terms, and, therefore, without limitation, viz. : "*Now we, taking into consideration the beneficial tendency of such an institution within our said city, calculated for relieving the diseases of the indigent,*" etc.

At the date of the granting of the charter, in 1771, the word "indigent" meant "poor, destitute, needy. Addison uses it in this sense, when he says that "Charity consists in relieving the *indigent*;" that is the sense in which the term is constantly used in the English Poor Laws. In our own State the word "*indigent*," as contradistinguished from "pauper," does not appear in any other than our lunacy statutes, where it was first introduced in chap. 135, Laws of 1842, at § 26. This distinction, therefore, between lunatics who are partially self-supporting (*indigents, not paupers*) and those who are not, was established *seventy-one* years after the granting of the charter of the New York Hospital, and it would be a violation of every canon of interpretation to place the present meaning of the word "indigent" as used in our lunacy statutes upon the same word as used in a charter drafted before any such legal meaning or attribute had been affixed to it.

It appears, therefore, from the report of the committee above cited, that in 1831 the Bloomingdale Asylum was nearly self-supporting. Yet the annual subsidies of \$10,000 from the State continued until 1860 and 1866.

Now, was this practical exclusion of county paupers a failure or not on the part of the governors to carry out the charitable purposes, contemplated by the State in its annual gifts to the corporation of the

hospital. We can see no escape from the conclusion, that it was. Indeed, this view of the position of the corporation was broadly suggested by Governor Marcy, in his annual message in January, 1834, where, in speaking of this asylum, he says that :

The State has already paid for founding and supporting it \$170,000, and has made a provision for an annual payment towards its support of \$10,000 until the year 1857. It is, however, inadequate to the public wants ; besides, this institution is in effect closed to that class of insane patients, presenting the strongest claims for your bounty, to those who are unable to contribute to their own maintenance." (Assembly Doc. No. 3, Jan. 7, 1834.)

In order to determine whether or not this closure of the asylum to the pauper insane, except on such terms as rendered practically impossible that they could be maintained there, was a misuse of the gift of the State, it is only necessary to revert to the charter, in which, as before shown, it is plainly stated that the hospital, meaning every part thereof, was "calculated for relieving the diseases of the indigent," and particularly those of the city of New York. All the subsidies of the State can justly be construed as also intending the same purpose only. They were public moneys and they were given solely to pious uses. It would be well to know, therefore, and it is the duty of the State to ascertain by what authority such a by-law was passed in violation of the spirit, if not the letter of the charter of this corporation. If the bounty of the State was intended to be dispensed through this Society for the benefit of the pauper insane of the city and county of New York, has it been in fact so done, or not?

When the asylum was already nearly self-supporting, in 1831, to what use were the subsequent State subsidies put? Did they go merely to enrich an institution which, having secured all it needed of public funds, and obtained exemption from all taxation of its property besides, now converted itself at its own discretion into a private charity and a close corporation? It is true, that the charter mentions among its corporators the mayor, recorder, aldermen and assistants of the city of New York, the rector of Trinity church, president of King's (now Columbia) College, etc., but also gives the exclusive right to govern the affairs of the Society to a board of governors of a definite number, who, alone are authorized to fill vacancies occurring in their ranks, and thus to perpetuate without change the traditions of their own government.

Such a corporation of general and unlimited powers, is but a franchise of personal despotism which, so far as the State has entrusted any funds to its hands, should not be allowed any longer to remain without some authority over or representation in their board of managers. We anticipate the reply that the Dartmouth College case covers and protects the Society against State intrusion. This is both true and untrue. It is true so far as the private donations on which the Society of the New York Hospital is founded are concerned. But it is not true so far as the Bloomingdale Asylum is concerned, for that was founded upon and erected with funds entrusted for that purpose by the State to the Society of the New York Hospital, and the same doctrine of the Dartmouth College case, which protects the rights of a founder of a corporation when a private person, protects the rights of the State, when under similar circumstances, it bestows funds as the founder of a charitable corporation. The maxim *cujus est dare ejus est disponere* applies to the rights of the State as the founder of a charitable gift, no less than to an individual citizen.

While the Bloomingdale Asylum was thus receiving annual subsidies from the State from 1816 to 1866, although a committee of the Assembly had reported, as before shown, that it was nearly self-supporting in 1831, and while its whole property was enjoying immunity from taxation under a law of the State, the county of New York was supporting its pauper lunatics in its alms-house asylum. There they remained until 1839, when they were removed to the new asylum on Blackwell's Island, and that institution proving inadequate in 1869, the Legislature, by chapter 56 of the Laws of 1869, authorized the city of New York to borrow \$300,000 on stock to be denominated "City Lunatic Asylum Stock," with interest at seven per cent, for the purpose of building an asylum on Ward's Island; and that being found insufficient, the Legislature, by chapter 120 of the Laws of 1870, authorized the city to issue another loan for \$400,000, and the board of supervisors were directed to cause to be raised by tax, in addition to the ordinary taxes yearly, and every year a sum sufficient to pay the interest semi-annually upon such stock.

Thus, in addition to all its ordinary taxes, was the county of New York compelled to raise fixed annual sums to pay the interest upon a new lunatic asylum fund, while the State had entrusted \$440,000 for the purpose of erecting such an asylum to the Society of the New York Hospital, and, besides, had exempted all its property from taxation since the year 1822. In this way have the citizens of New York been trebly taxed for the benefit of the Bloomingdale Asylum—

First.—By contributing to the State treasury from which the annual subsidies to this institution were originally drawn.

Second.—By being compelled to borrow means to pay the principal and interest on the City Lunatic Asylum stock issued to build this needed institution; and,

Third.—By the loss of taxes arising from the exemption of the very valuable property belonging to the Bloomingdale Asylum from any and all taxation.

It would be difficult to point in this State to a more striking illustration of the doctrine of mortmain than has been exhibited by the Governors of the Society of the New York Hospital in their management of the funds entrusted to them by the State for the founding of the Bloomingdale Asylum, and I accordingly subjoin a list of that property so long exempt from taxation, in order that the Legislature may see how well justified were the Commissioners of Charities and Correction in appealing to the governors of this asylum to aid them in making provision for the pauper insane of New York city.

The property of the Bloomingdale Asylum is situated in the Twelfth ward of the city of New York, and described and rated as follows on its tax books, viz. :

Block No.	Street.	Valuation.
1154.....	112-13	Public drive..... \$20,000 00
1154.....	112	
1154.....	112	
1154.....	113.....	1,000 00
1154.....	113.....	30,000 00
1155.....	113-14.....	165,000 00
1156.....	114-15.....	165,000 00
1157.....	115-16.....	200,000 00
1158.....	116-17.....	200,000 00
1159.....	117-18.....	200,000 00
1160.....	118-19.....	200,000 00
1161.....	119-20.....	165,000 00

Block No.	Street.	Valuation.
1273	116-17	\$12,000 00
1273	116-17	40,000 00
1273	116-17	7,500 00
1273	116-17	10,000 00
1274	117-18	7,500 00
1274	117-18	35,000 00
1274	117-18	7,500 00
1274	117-18	500 00
1275	118-19	200 00
1275	118-19	35,000 00
1276	119-20	33,000 00
1276	Public drive	5,000 00
Total amount		<u>\$1,539,200 00</u>

The amount of tax on said property, if liable to taxation, would have amounted as follows, viz.:

For the year 1875, rate 2.94	\$45,262 48
For the year 1876, rate 2.80	43,097 60
For the year 1877, rate 2.65	40,788 80
Total amount	<u>\$129,138 88</u>

RECAPITULATION.

Taking the cost of support of the pauper insane of New York county for 1877 at	\$222,345 90
Interest payable on "City Asylum for Insane" building bonds, annually	45,000 00
Exempted taxes for 1877 on Bloomingdale Asylum, equivalent to a gift from the county	40,788 80
Total	<u>\$308,134 79</u>

Whence it follows that the county of New York is now annually expending \$308,134.79 for the support of its pauper insane, while the Bloomingdale Asylum, erected by State funds for the benefit of the poor of the county of New York, and possessed of property within that county, to the amount of \$1,539,200, on which no taxes are paid, closes its doors against the poor of New York, thus denying them the enjoyment of the charitable gifts made by the State in their behalf.

The foregoing facts, based upon historical data which admit of no disproof, point conclusively to the duty which the State owes to itself, as well as to the county of New York, of seeing that its gifts to charitable uses are no longer diverted to other and unauthorized purposes. And whatever may be said in general of its authority over all eleemosynary corporations founded by itself, to visit, investigate and direct their management, we shall find that the common law of England which became, under the first Constitution of this State, the common law of New York, explicitly provides means by which the sovereign authority can always interfere to mould the character of a public charity, for the greatest good to the greatest number. Under the shadow of its time-honored principles we shall accordingly find the following propositions arranging themselves on the side of the State's unquestionable rights, viz:

First.—That if the Society of the New York Hospital, originally founded by private benefaction, be, in point of law, a private corporation, although dedicated to public charity, then the Bloomingdale

Asylum, founded and built wholly by State subsidies, satisfies every condition necessary to make it a public charity.

Second.—The principle is indisputable that the founder of an eleemosynary corporation may dispose and order it as he will, and may give it whatever shape he pleases, provided it be a legal one. (1 Kyd on Corp., 50, 2 ib., 195; Dartmouth College v. Woodward, 4 Wheat., 518.)

Third.—Before the passage of the act of 1816 there was no Bloomingdale Asylum in existence. This act made annual grants to the Society of the New York Hospital for the specific purpose of founding and erecting it as a public charity. (Chap. 203, Laws of 1816; Assembly Doc. 263, March, 1831.) The State, being thus the sole founder (*fundator perficiens*) of that institution, had the exclusive right, from its inception, to direct its management. The fact that it has allowed it to remain in the hands of the Society of the New York Hospital, as trustees, does not in the least invalidate its present right to discharge such trustees and appoint others of its own selection; or to direct the present trustees as to the future management of such trust for *cujus est dare ejus est disponere*. Nor does lapse of time bar these rights in respect to the State. For this is not recalling the charity, but only directing its application. The State has always the right to follow its gifts to charitable uses, they being public gifts, and to ascertain how they are being carried out.

Fourth.—Were it even true that the State had only added its funds to those already possessed by the Society of the New York Hospital, and thus joined in the erection of the Bloomingdale Asylum, that fact would not divest it of authority, for, as we have elsewhere shown, it is an established principle of the common law that if the king and a private man join in endowing a charitable corporation, the king alone shall be the founder. (Kyd on Corp., 51.) Under that same principle, also, there could be no partnership between the king and a private citizen, and all that the king in England might do, in relation to granting franchises, the State with us may do. Hence the right to appoint visitors being always inherent in the founder of a charity, the State could at any time have done the same, and can still do so in the case of the Bloomingdale Asylum. Its right in this respect is paramount and indefeasible.

Fifth.—It has long been settled that the capacity of a corporation universally to be a trustee is among the elementary principles in the law of trusts. (1 Saund. on Uses, 349; Willis on Trustees, 31; Lewin on Trusts, 10, 11; 2 Co. Litt., 706; note, Penn. v. Ld. Baltimore, 1 Ves. 453; Att'y-Gen. v. Foundling Hospital, 2 Ves. Jr. 46; Green v. Rutherford, 1 Ves. 467.) Many American authorities may also be cited. (Trustees Phillips Academy v. King, 12 Mass. 556; Am. Acad. of Sci. v. Pres. and Fellows of Harvard Univ., 12 Gray, 583; Drury v. Natick, 10 Allen, 169; Chambers v. Baptist Soc., 1 B. Monroe, 216; Harv. Coll. v. Soc. Th. Enq., 3 Gray, 280.)

It will not be denied that these subsidies of the State were a gift to charitable uses, and under the common law, charitable donations are to be liberally construed, with a view to promote the general charitable intent of the donor. (Attorney-General v. Christ's Hospital, 1 Russ. and Myl., 626; Attorney-General v. Caius Coll., 2 Keen, 163.)

Sixth.—The grant to a corporation must be accepted as it is offered, and the grantees are not at liberty to act under part of its provisions and to reject the rest. (1 Kyd, 65.) The Society of the New York Hospital, although the annual subsidies entrusted to them by the State were paid in gross, had no right to merge the Bloomingdale Asylum fund into their general funds.

In the present case the appropriations of the State were made under chapter 203 of 1816, for the express purpose, as recited in the title of this act, of enabling the Society of the New York Hospital to erect a new building for the accommodations of insane patients. These patients, belonging to the indigent class for which the hospital was originally founded, were the *cestui que trusts* for whose beneficial use the State subsidies were granted. They were specifically designated. These funds were given to the Governors of the New York Hospital, not as part of a general appropriation, to be subdivided by them according to their pleasure, but as specified trust funds to the uses of an insane department distinct from the hospital, and of which the State thus becomes the *fundator perficiens*; and the two departments, having distinct duties to perform, there was no necessary merger of one into the other.

Seventh.—An ordinary hospital, whether incorporated or not, cannot convert itself at will into a lunatic asylum. For a lunatic asylum implies the right of permanent confinement of an insane person, meaning thereby the right of restraining his personal liberty. This is a prerogative right exclusively vested in the State, which alone can delegate authority to restrain personal liberty in accordance with the law of the land. Hence such authority is never presumed to exist as a natural right in any person or corporation, but must be specifically delegated. At common law all prisons were king's prisons, and since the passage of the statute of 14 Geor. 3, c. 49, A. D. 1774, for the regulation of insane asylums, all such institutions in Great Britain must be legalized by public authority.

Now, under the Constitution of 1777, it was ordained that "such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the Legislature of the Colony of New York, as together did form the law of the said Colony on the 19th day of April, in the year of our Lord 1775, should form the law of the State, subject to such alterations and provisions as the Legislature of the State should from time to time make concerning the same."

Therefore, when the State founded the Bloomingdale Asylum, it only delegated by implication the authority to hold lunatics in custody. It did not grant it absolutely, because it could not. That authority it can withdraw at any time, and it may in like manner direct that the institution be put to any other charitable use. The Society of the New York Hospital, as a charitable corporation, because entrusted with the erection of the Bloomingdale Asylum, have no continuing or vested right of management as against the State, for the State cannot divest itself of the right of controlling personal liberty, by gift to any person or corporation. (Cooley Const. Lim., 82-4.) Therefore it may withdraw the right of personally restraining lunatics, from the Bloomingdale Asylum at any time, and may convert it into any other form of public charity it pleases, for the power of custody can never be made the subject of contract between the State and a corporation, and no vested rights can accrue under it. It is one of the police powers of the State, which is inalienable. (8 Coke, 375.)

Eighth.—The trustees of the asylum funds were bound to act up to the end or design for which they were incorporated, viz.: the care, chiefly, of the indigent insane. This is a fundamental principle in the law of corporate grants. Hence, the by-law adopted by them, which, in its effects, was calculated to exclude, and has always excluded, the indigent class from the asylum was a willful abuse of the spirit and let-

ter of their charter. For the intention expressed in the charter is in the nature of a duty imposed upon the corporation, and, as such, was, by implication, annexed to the grant of their franchise.

Ninth.—The indigent insane of the city of New York were the beneficiaries intended by the State in the erection of the Bloomingdale Asylum, and nothing is better established in the law of charitable uses than that such beneficiaries have a vested equitable interest in such charity. Hence, ministers of the Gospel may have a vested interest in a gift to a church according to the regulation of the founder. (*Att'y-Gen'l v. Pearson*, 3 Meri., 402; *Att'y-Gen'l v. Jones*, Shelford, 765; note *g*; *Doe v. McKeag*, 10 Barn and Cr., 721.) So pensioners in a hospital. (*Att'y-Gen'l v. Locke*, 3 Atk., 164.) Also scholars in a free school. (*Att'y-Gen'l v. Leigh*, 3 P. Wms., 146, note, Shelford, 769.) And it is a postulate sustained by the current of decisions, both in the United States as well as in England, that equity will carry out a gift to charitable uses, however vaguely stated. (*Mills v. Farmer*, 1 Meriv., 55; *Vidal v. Mayor, Aldermen, etc., of Philadelphia*, 2 Howard, 127.)

Tenth.—There has not been on their part so much even as a substantial performance of this intention, so far as relates to the pauper insane of the county of New York. This misuse of their franchise has been continuous for over forty years. It cannot, therefore, be called either accidental or unintentional.

Eleventh.—It is also well settled that non-performance of a particular act required by the charter of a corporation, whether for the benefit of an individual or of the State, is, or may be, a cause of forfeiture, although not specially declared to be such by the charter itself. (*Att'y-Gen'l v. Petersburgh R. R. Co.*, 6 Ired., 456.)

Twelfth.—If the Bloomingdale Asylum be a private corporation, it can only be so by virtue of having been founded by private donations. The mere fact that the funds for building it were entrusted to a private corporation does not constitute it a private charity, since, as before shown, a corporation has capacity to act as trustee of a fund, and the private character of the Society of the New York Hospital cannot impart itself, by implication, to the State funds entrusted to it for public uses.

If, on the other hand, the Bloomingdale Asylum be a public charity, it can only be so by virtue of opening its doors to all classes of the insane, whether self-supporting or not, for "it is the extensiveness of a charity," says Lord Hardwicke (in *Att'y-Gen'l v. Pearce*, 2 Atk., 87), "which makes it public."

It is evident, therefore, that the State may direct the use to which its funds, invested in the Bloomingdale Asylum, shall in future be put, and, as its founder, it may also appoint its own visitors to that institution, because the power of appointing visitors to any corporation is always a prerogative right in its founder. (*Phillips v. Bury*, 1 Ld. Raymond, 8; *Dartmouth Coll. v. Woodward*, 4 Wheat., 518.)

In view of the great and pressing need of more accommodations for the pauper insane of the county of New York, and justified, as I believe myself to be, by the facts recited in the preceding history of the relations of the State to the Society of the New York Hospital, as also by the current of legal authorities defining the powers and duties of charitable corporations, whether acting by inherent right or in the fiduciary capacity of trustees, I accordingly recommend that it be referred to the Attorney-General to determine—

First.—What duty the corporation of the New York Hospital owe to

the State in respect to making provision for the pauper insane of the county of New York ;

Second.—What legislation is necessary to enforce such duty ; and,

Third.—Whether the State has power to appoint, as founder of the Bloomingdale Asylum, a board of governors for its management.

JOHN ORDRONAU,
State Commissioner in Lunacy.

SUPPLEMENTAL BRIEF

TO ACCOMPANY

REPORT OF THE STATE COMMISSIONER IN LUNACY

TO THE LEGISLATURE ON THE

RELATIONS OF THE STATE TO THE SOCIETY OF THE NEW YORK
HOSPITAL.

PRESENTED APRIL 4, 1878, AND REFERRED TO THE ATTORNEY-GENERAL.

POINTS.

I.

The several acts of the Legislature of 1806 and 1816, granting subsidies to the Society of the New York Hospital for the purpose of founding, erecting and maintaining an Asylum for the Indigent Insane of the City and County of New York, constituted the State the original founder of the Bloomingdale Asylum, because, at common law there can be but one founder *quoad dotationem*, to whose heirs or successors the right of visitation belongs, and that founder is he who makes the first donation.

Case of Sutton's Hospital, 10 Coke, 31.

Report, pp. 1 to 29 ; Points 2d and 3d, and ca. ci.

Therefore the State might, along with these subsidies, have appointed at the start a board of managers of its own for the Bloomingdale Asylum, since patronage and visitation both arise from the founder.

Bury v. Phillips, 4 Mod., 106.

Report, Point 4th.

II.

Since the right of visitation and of control both arise in law from the interest which the founder has in the charity, so that right is as valid now as it ever was, for no statute of limitation can be invoked by the Society of the New York Hospital against the State, and no laches in turn can be imputed to it. The maxim, *nullum tempus occurrit regi* fully applies here.

People v. Gilbert, 18 Johns., 227.

Stoughton v. Baker & Vose, 4 Mass., 522.

Green v. Mayor of N. Y., 4 Robertson, 675.

Besides which, this is not an action by the Attorney-General to annul the Charter of the Society of the New York Hospital, but a proceeding to determine whether that Society as trustees of the Bloomingdale Asylum funds, have applied them to the specific uses intended by the State, and whether the State shall not, in future, administer these funds through a board of managers of its own appointment.

Report, Point 3d.

III.

Such subsidies were never intended to be annexed to, engrafted upon or merged into, the original funds of the hospital. No words are used in connection with these subsidies which convey any such intention, and the rule is well established that either express words are necessary, or that the intention must be shown to exist by necessary implication from the acts of the founder.

Green v. Rutherford, 1 Ves. Sen'r, 472.

But no such implication can be raised here, because the purposes for which these funds were given in trust—that is to say, for the founding of a lunatic asylum, not being purposes within the scope of powers granted in the original charter to the hospital, cannot be assumed or implied as an inference from the gift of funds alone. For the right of controlling the personal liberty of the citizen is among those prerogative powers of the State of which it cannot divest itself. Whence it follows that it is the duty, in fact, of the State to supervise by public officers of its own selection, or that of the people in the several counties, every lunatic asylum, as well as every penal reformatory, penitentiary, jail, or prison.

Cooley Const. Lim., 282-4; 8 Coke, 375. Report, Point 7th.

IV.

Again, the several acts of the Legislature of 1806 and 1816, providing means for the founding and erecting of the Bloomingdale Asylum, only gave a *license* to the Society of the New York Hospital to hold lunatics in custody, but did not constitute a charter in itself, and the officers in trust of these State funds, while having the legal estate vested in them for the particular purposes of such charity, are not even created thereby a *quasi* corporation by lapse of time, and consequent prescription. They can acquire, therefore, no higher title than that originally arising from the trust confided to them.

Report, Point 4th.

V.

The Society of the New York Hospital to whom these funds are confided, being only trustees to specific uses, can have no vested rights as against the State, the original donor, for, although, there be a grant of power to them over these funds, such grant does not constitute a contract in any sense of the term. The State may therefore mould and direct its gifts to charitable uses, in their hands, according to its own will.

Report, Point 5th, ca. ci.

VI.

The fact that a Board of Governors existed for the government of the Society of the New York Hospital at the time these State subsidies were made for the erecting of the Bloomingdale Asylum, did not extend their general corporate rights over these subsidies, by implication. The governors have always held these funds simply as trustees of the State, and, in consequence, there was no necessary merger by operation of law of the asylum funds into those originally possessed by the Society for the use of the hospital. Therefore, the State may still appoint its own visitors, because the word "*Governor*" does not of itself imply a visitor as well, since that would make the original charter operate to double intent. It would be both unreasonable and mischievous, where governors are appointed that they should be visitors by construction, and thus exempt from visitation by others.

Eden v. Forster, 2 P. Wend. 325. Report, Point 4th.

VII.

Governors of charities are always accountable for the manner of discharging their trust, wherever they are entrusted with any of its *rents* or *profits*. And the fact that the legal estate, as well as the government of the charity, is vested in them, does not exonerate them from such accountability.

Eden v. Forster, 2 P. Wend. 325.
Att'y-Gen. v. Smart, 1 Ves. 72. Report, Point 6th.

VIII.

Assuming even that the Governors of the Society of the New York Hospital may exercise, *virtute officii*, a visitatorial power over their own hospital, yet this would not give them any exclusive power to act as such over the funds of the Bloomingdale Asylum, for a visitatorial power may be divided, one set of visitors to one purpose, and another to another purpose. A visitor for a particular purpose cannot be a general visitor, because no visitor can visit himself. Hence, where both the estate and revenues are vested in one board of governors, they cannot be visitors, because they cannot visit themselves. They are only competent to act as visitors where either the government, or the legal estate, or both, are vested in them, but not where the *revenues* of the funds also pass through their hands.

Att'y-Gen. v. Middleton, 2 Ves., 328 ; Case of Sutton's Hospital, 10 Coke, 31.

IX.

While the legal estate in the Bloomingdale Asylum subsidies was doubtless given by the State to the Society of the New York Hospital, it was created not as a general trust in them to the uses of that hospital, but as a special trust to the use of the indigent insane alone of New York city. Such trust is not therefore to be discharged according to the statutes governing the corporation in general, but according to the intent of the specific purpose contemplated by the trust embodied in these subsidies.

Report, Point 12th.

X.

The State never having parted with its original right, as founder of the Bloomingdale Asylum, to prescribe any laws for its government which may seem meet, may now by legislation supply any past omissions in this respect, and thus mould its own charity in better furtherance of the end for which it was originally created.

Phillips v. Berry, 1 Lord Raym., 8.
Report, Point 12th.

XI.

Admitting even that the Governors of the Society of the New York Hospital have, at various times, maintained some insane persons in the Bloomingdale Asylum without receiving any compensation therefor, after such persons had become impoverished and without means of self-support, it does not follow that such persons were in every instance indigent *at the date* of their admission into the asylum, or that it was then agreed that no charges would be made either against them or their relatives for their maintenance. Doubtless, in the course of the past fifty years, many insane patients admitted as self-supporting lunatics have exhausted their means while in the Bloomingdale Asylum, and some of these have been retained there for special reasons. But others, it can be shown, have been thrown upon the county of New York for support, in direct violation of the intent of the State in giving annual subsidies for the founding of the Bloomingdale Asylum.

Report, Point 10th.

XII.

The practical closing of the doors of this asylum to the indigent insane of New York city, as stated by Gov. Marcy in 1834, continues to the present time.

Report pp. 6, 24, 25.

JOHN ORDRONAU, [^]
State Com. in Lunacy.

Dated ROSLYN, November 11, 1878.

SYNOPTICAL TABLE

Giving the statistics of the insane, of the idiots, and of the epileptics in the public and private institutions of New York, on November 1, 1878.

	INSANE.			IDIOTS.			EPILEPTICS.		
	Male.	Female.	Total.	Male.	Female.	Total.	Male.	Female.	Total.
In State asylums.....	1,284	1,315	2,599	173	119	292	89	64	153
County and poor-houses.....	2,135	2,323	5,058	298	222	520	192	207	399
In private asylums.....	191	264	455	.....	1	1	9	15	24
Total.....	3,610	4,502	8,112	471	342	813	290	286	576

RECAPITULATION.

Total insane, 8,112; idiots, 813; epileptics, 576; total of all, 9,501.

The total number of the insane, including idiots and epileptics, for 1877 was 7,982, making an increase for 1878 of 1,519, or a fraction over *nineteen per cent.*

MORTALITY STATISTICS FOR THE YEAR ENDING OCTOBER 31, 1878.

	INSANE, IDIOTS AND EPILEPTICS.		
	Male.	Female.	Total.
In State asylums.....	118	91	209
County and poor-houses.....	288	188	476
Private asylums.....	11	10	21
Total.....	417	289	706

The mortality for 1877 was 685; for the year 1878, 706. Thus, while the increase of the insane was over nineteen per cent, the mortality was less than eight per cent.

	INSANE.		IDIOTS.				Total.	Weekly cost.	DIED.	
	Male.	Female.	Male.	Female.	Male.	Female.			Male.	Female.
Albany	27	42			2		71	\$1 47	1	2
Allegany	2	5			3	3	13	1 25		1
Broome	20	21	11	7	3	1	63	1 50		1
Cattaraugus	15	24	5	4	2	2	50	1 50	2	
Cayuga	10	9	4		2	1	30	1 56	1	
Chautauqua	34	41	3	3	1	3	85	1 00	6	2
Chemung		1	2		1		4	1 27	1	
Chenango	13	21	2	2	1	3	42	1 00	1	1
Clinton	12	13	10	2	7	2	46	1 25	4	1
Columbia	11	12	1	5	1	1	31	2 00		1
Corland	18	19	2	7	2	2	50	1 05		1
Delaware		2	4	1		1	8	1 23		
Dutchess		10	2		1	1	18	2 00		
Poughkeepsie C. A. H. ..	3	4		1		3	11	2 00	1	
Erie	107	128	2	1	5	13	256	2 25	5	7
Essex	8	8	2	1	1	2	22	85	2	
Franklin	1	5		1	1		8	1 04	1	
Fulton	3	3	2	2			10	1 75		
Genesee	11	10	2	3	1	1	28	2 50		
Greene	1	4	5	2		12	12	1 08		
Hamilton *										
Herkimer	5	6	3	2	2	1	19	1 87		
Jefferson	10	45			4		59	1 37	1	
Kings	264	431	11	9			715	Not given.	24	35
Lewis	9	6	1		1		17	1 36		2
Livingston	32	27	6	3		2	70	2 75	1	2
Madison	12	18			2	1	33	1 50		
Monroe	75	103	2	3	6	10	199	1 93	5	2
Monroe P. A.	20	16	3	4	4	1	48	1 18	5	
Montgomery	14	21	2	2	1	2	42	3 00	1	
New York, viz.:										
Blackwell's Island	9	1,286				77	1,372	1 40		95
Ward's Island	982		15		56		1,053	2 11	126	
Randall's Island	2		118	90	30	17	255	1 75	7	11
Niagara	2		2	3		1	8	1 26	2	1
Oneida	60	120	8	4	10	5	207		3	4
Onondaga	40	79	4	2	4	3	132	2 00	4	6
Ontario			8	2	3		13	1 04		
Orange	37	60		3	3		103	1 76	2	1
Newburgh C. A. H.	2	1	3		1	1	8	2 60		
Orleans	2	2	2	1	2	2	11	1 88		
Oswego	10	23			2		35	1 50	5	1
Otsego	5	8	9	7	4	6	39	1 10		
Putnam	3	3	3	2		1	12	2 00	1	
Queens	22	38				3	63	2 27	1	
Rensselaer †	58	63			3	2	126	4 00	6	5
Richmond	11	11		1		1	24	2 23		
Rockland	3	3	3		4	3	16	2 00	1	
St. Lawrence	11	20	8	5	5	3	52	2 00	8	1
Saratoga	22	17	4	9		1	53	1 50		2
Schenectady			1				1			
Schoharie	1	5	3	4	1	2	16	1 30		
Schuyler *										
Seneca			3	2	2		7			
Steuben	1	3	1	1		3	9			1
Suffolk	42	28			2	4	76	90		3
Sullivan	15	22	1	1	2	4	45	1 00	1	2
Tioga	6	7	3				16	98		
Tompkins	3	2	1	2			8	1 17	1	
Ulster	1	2	4	2	1		10			
Warren	4	3	4	3	1	1	16	1 20		
Washington	11	22	1		1	1	36	1 02	2	
Wayne	20	24			2	4	50	1 20	2	2
Westchester	4			1		5	10	1 45		1
Wyoming	7	14	2	7			30	2 50	1	3
Yates		2		1	1	1	5	1 58		
Total	2,135	2,923	180	132	162	190	5,722		229	187

* No county house.

† Insane kept in Marshall Infirmary.

**MORTALITY STATISTICS IN STATE AND PRIVATE ASYLUMS FOR THE YEAR
ENDING OCTOBER 31, 1878.**

	NATURAL CAUSES.		SUICIDE.		Total.
	Male.	Female.	Male.	Female.	
STATE ASYLUMS.					
State Lunatic.....	35	34	1	1	69
Willard Asylum.....	46	37	.....	.....	83
Hudson River State Hospital.....	16	6	.....	.....	22
Criminal Asylum.....	4	.....	.....	.....	4
State Homeopathic Asylum.....	10	6	1	.....	16
State Emigrant Asylum.....	5	4	.....	.....	9
State Asylum for Idiots.....	2	4	.....	.....	6
	118	91	1	1	209
PRIVATE ASYLUMS.					
Marshall Infirmary*.....	.....	.....	.....	.....	.....
Providence Lunatic Asylum.....	6	2	.....	.....	8
Sanford Hall.....	.....	2	.....	.....	2
Brigham Hall.....	.....	1	.....	.....	1
Bloomington Asylum.....	5	5	.....	.....	10
Dr. Choate's Asylum.....	.....	.....	.....	.....	.....
	11	10	.....	.....	21

* Included with Rensselaer county, all of whose insane are kept there.

**MORTALITY STATISTICS IN COUNTY ASYLUMS AND POOR-HOUSES FOR THE
YEAR ENDING OCTOBER 31, 1878.**

	INSANE, IDIOTS, AND EPILEPTICS.		Total.
	Male.	Female.	
Albany.....	1	2	3
Allegany.....	.....	1	1
Broome.....	2	1	3
Cattaraugus.....	2	.....	2
Cayuga.....	1	.....	1
Chautauqua.....	6	2	8
Chemung.....	1	.....	1
Chenango.....	.....	1	1
Clinton.....	4	1	5
Columbia.....	1	1	1
Cortland.....	.....	1	1
Delaware.....	.....	.....	.....
Dutchess.....	.....	.....	.....
Poughkeepsie C. A. H.....	.....	1	1
Erie.....	5	7	12
Essex.....	2	.....	2
Franklin.....	1	.....	1
Fulton.....	.....	.....	.....
Genesee.....	.....	.....	.....
Greene.....	.....	.....	.....
Herkimer.....	.....	.....	.....
Jefferson.....	1	.....	1
Kings.....	24	35	59
Lewis.....	.....	2	2
Livingston.....	1	2	3
Madison.....	.....	.....	.....
Monroe.....	1	2	12
Montgomery.....	1	.....	1
New York.....	126	95	21
Niagara.....	2	1	3
Oneida.....	3	4	7
Onondaga.....	4	6	10
Ontario.....	.....	.....	.....
Orange.....	2	1	3
Newburgh C. A. H.....	.....	.....	.....
Orleans.....	.....	.....	.....

MORTALITY STATISTICS, ETC.—(Continued).

	INSANE, IDIOTS, AND EPILEPTICS.		Total.
	Male.	Female.	
Oswego	5	1	6
Otsego	1	1	2
Putnam	1	1	2
Queens	1	1	2
Rensselaer	6	5	11
Richmond	1	1	2
Rockland	1	1	2
St. Lawrence	8	1	9
Saratoga	1	2	3
Schenectady	1	1	2
Schoharie	1	1	2
Seneca	1	1	2
Steuben	1	1	2
Suffolk	1	3	4
Sullivan	1	2	3
Tioga	1	1	2
Tompkins	1	1	2
Ulster	1	1	2
Warren	1	1	2
Washington	2	1	3
Wayne	2	2	4
Westchester	1	1	2
Wyoming	1	3	4
Yates	1	1	2
Total	288	188	476

STATISTICS FOR THE YEAR TERMINATING NOVEMBER, 30, 1878.

STATE LUNATIC ASYLUM.

	Male.	Female.	Total.
Number at beginning of year	287	295	582
Admitted during year	234	193	427
Total present during year	521	488	1,009
Discharged recovered	66	78	144
Discharged improved	25	12	37
Discharged unimproved	93	52	145
Died	35	34	69
Not insane	5	2	7
Highest number present at any one time	315	304	619
Remaining at end of year	297	310	607
Epileptics	3	4	7
Death by suicide	1	1	2

STATISTICS FOR THE YEAR TERMINATING NOVEMBER 1, 1878.
WILLARD ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	519	745	1,264
Admitted during year.....	184	101	285
Total present during year.....	703	846	1,549
Discharged recovered.....	1	5	6
Discharged improved.....	9	24	33
Discharged unimproved.....	14	13	27
Died.....	46	37	83
Highest number present at any one time.....	634	767	1,401
Remaining at end of year.....	633	767	1,400
Idiots.....	16	11	27
Epileptics.....	59	49	108

Weekly cost of maintenance for county patients, \$2.70.*

STATISTICS FOR THE YEAR TERMINATING NOVEMBER 30, 1878.
HUDSON RIVER STATE HOSPITAL.

	Male.	Female.	Total.
Number at beginning of year.....	129	99	228
Admitted during year.....	81	58	139
Total present during year.....	210	157	367
Discharged recovered.....	13	14	27
Discharged improved.....	11	6	17
Discharged unimproved.....	42	27	69
Died.....	16	6	22
Highest number present at any one time.....	148	116	264
Remaining at end of year.....	128	104	232
Epileptics.....	11	5	16

STATISTICS FOR THE YEAR TERMINATING NOVEMBER 1, 1878.
STATE CRIMINAL ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	90	14	104
Admitted during year.....	45	3	48
Total present during year.....	135	17	152
Discharged recovered.....	8	.....	8
Discharged improved.....	4	3	7
Discharged unimproved.....	6	1	7
Not insane.....	7	.....	7
Died.....	4	.....	4
Highest number present at any one time.....	110	13	123
Remaining at end of year.....	107	12	119
Epileptics.....	4	.....	4

Weekly cost of maintenance for county patients, \$4.

* Does not include clothing, products of farm, or salaries of resident officers.

STATE HOMCEOPATHIC ASYLUM FOR THE INSANE.

	Male.	Female.	Total.
Number at beginning of year.....	61	65	126
Admitted during year.....	74	87	161
Total present during year	135	152	287
Discharged recovered	25	35	60
Discharged improved	7	8	15
Discharged unimproved	19	25	44
Died	10	6	16
Highest number present at any one time.....	72	81	153
Idiots.....	2	.....	2
Not insane.....	2	.....	2

Weekly cost of maintenance for county patients, \$4.50.

STATE EMIGRANT LUNATIC ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	66	61	127
Admitted during year.....	31	30	61
Total present during year	97	91	188
Discharged recovered.....	11	8	19
Discharged improved.....	15	14	29
Discharged unimproved	19	24	43
Died	5	4	9
Highest number present at any one time.....	67	61	128
Remaining at end of year.....	47	41	88
Epileptics	4	2	6

STATE IDIOT ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	132	107	239
Admitted during year.....	41	31	72
Total present during year.....	172	138	311
Discharged improved.....	14	26	40
Died	2	4	6
Highest number present at any one time.....	.....	.....	230
Remaining at end of year.....	157	108	265
Epileptics	6	4	10

Weekly cost of maintenance for county patients, \$3.54.

NEW YORK CITY LUNATIC ASYLUM.

	Male.	Female.	Total.
Number at beginning of year	9	1,385	1,394
Admitted during year .....	.....	410	410
Retransferred from Hart's Island Asylum .....	.....	7	7
Total present during year	9	1,802	1,811
Transferred to Ward's Island Branch Asylum .....	.....	149	149
Transferred to Hart's Island Branch Asylum .....	.....	14	14
Discharged recovered .....	.....	170	170
Discharged improved .....	.....	53	53
Discharged unimproved .....	.....	24	24
Discharged improper subjects .....	.....	11	11
Died .....	.....	95	95
Highest number present at any one time	9	1,389	1,398
Remaining at end of year	9	1,286	1,295
Epileptics .....	.....	77	77
Death by suicide .....	.....	3	3

Weekly cost of maintenance for county patients, \$1.40.

NEW YORK CITY ASYLUM FOR THE INSANE.

	Male.	Female.	Total.
Number at beginning of year	693	.....	693
Admitted during year .....	.....	.....	538
Total present during year .....	.....	.....	1,231
Discharged recovered	34	.....	.....
Discharged improved	67	.....	.....
Discharged unimproved	22	.....	123
Died .....	.....	.....	126
Highest number present at any one time	982	.....	.....
Remaining at end of year .....	.....	.....	982
Idiots	15	.....	15
Epileptics	56	.....	56

Weekly cost of maintenance for county patients, \$2.11.

NEW YORK COUNTY IDIOT ASYLUM.

	Male.	Female.	Total.
Number at beginning of year	111	93	204
Admitted during year	36	19	55
Total present during year	147	112	259
Discharged improved	2	1	3
Discharged unimproved	20	10	30
Died	7	11	18
Highest number present at any one time	118	90	208
Remaining at end of year	118	90	208
Epileptics	30	17	47

Weekly cost of maintenance for county patients, \$1.75.

KINGS COUNTY LUNATIC ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	254	420	674
Admitted during year.....	163	161	324
Total present during year.....	417	581	998
Discharged recovered.....	69	62	131
Discharged improved.....	27	27	54
Discharged unimproved.....	33	26	59
Died.....	24	35	59
Remaining at end of year.....	264	431	695
Epileptics.....	11	9	20
Death by suicide.....	1	1	2

Weekly cost of maintenance for county patients not reported.

MONROE COUNTY ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	69	95	164
Admitted during year.....	34	52	86
Total present during year.....	103	147	250
Discharged recovered.....	6	10	16
Discharged improved.....	22	20	42
Discharged unimproved (sent to Utica).....	7	.....	7
Died.....	5	2	7
Highest number present at any one time.....	80	106	186
Remaining at end of year.....	75	103	178
Imbeciles.....	2	3	5
Epileptics.....	6	10	16

Weekly cost of maintenance for county patients, \$1.93.

MARSHALL INFIRMARY.

	Male.	Female.	Total.
Number at beginning of year.....	39	64	103
Admitted during year.....	28	35	63
Total present during year.....	67	99	166
Discharged recovered.....	5	5	10
Discharged improved.....	8	13	21
Discharged unimproved.....	10	13	23
Died.....	6	5	11
Highest number present at any one time.....	47	69	116
Remaining at end of year.....	38	63	101
Epileptics.....	3	2	5

Weekly cost of maintenance for county patients, \$4.

PROVIDENCE LUNATIC ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	20	50	70
Admitted during year.....	103	31	134
Total present during year.....	123	81	204
Discharged recovered.....	79	19	98
Discharged improved.....	8	16	14
Discharged unimproved.....	5	5	10
Died.....	6	2	8
Highest number present at any one time.....	30	50	80
Remaining at end of year.....	26	48	74
Idiots.....		1	1
Epileptics.....		3	3

Weekly cost of maintenance for county patients, \$3.

SANFORD HALL.

	Male.	Female.	Total.
Number at beginning of year.....	13	15	28
Admitted during year.....	7	6	13
Total present during year.....	20	21	41
Discharged recovered.....	3	3	6
Discharged improved.....	3	2	5
Discharged unimproved.....	1	2	3
Died.....		2	2
Highest number present at any one time.....	17	15	32
Remaining at end of year.....	13	12	25

BRIGHAM HALL.

	Male.	Female.	Total.
Number at beginning of year.....	27	35	62
Admitted during year.....	20	24	44
Total present during year.....	47	59	106
Discharged recovered.....	2	4	6
Discharged improved.....	9	10	19
Discharged unimproved.....	7	6	13
Discharged, inebriates.....	5		5
Died.....		1	1
Highest number present at any one time.....			65
Remaining at end of year.....	24	38	62
Epileptics.....	1	4	5

BLOOMINGDALE ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	73	96	169
Admitted during year.....	54	51	105
Total present during year.....	127	147	274
Discharged recovered.....	9	16	25
Discharged improved.....	20	23	43
Discharged unimproved.....	8	2	10
Died.....	5	5	10
Highest number present at any one time.....	90	101	191
Remaining at end of year.....	85	101	186
Idiots.....	.....	1	1
Epileptics.....	5	5	10

DR. G. C. S. CHOATE'S ASYLUM.

	Male.	Female.	Total.
Number at beginning of year.....	4	1	5
Admitted during year.....	1	5	6
Total present during year.....	5	6	11
Discharged recovered.....	.....	3	3
Discharged improved.....	.....	3	1
Highest number present at any one time.....	5	3	8
Remaining at end of year.....	5	2	7
Epileptics.....	.....	1	1

REPORT OF THE

NAME	AGE	SEX	OCCUPATION
J. H. B.	25	M	Farmer
W. C. D.	30	M	Teacher
M. A. E.	20	F	Student
T. R. G.	35	M	Merchant
L. P. H.	28	F	Homemaker

REPORT OF THE

NAME	AGE	SEX	OCCUPATION
J. H. B.	25	M	Farmer
W. C. D.	30	M	Teacher
M. A. E.	20	F	Student
T. R. G.	35	M	Merchant
L. P. H.	28	F	Homemaker